

Approved: BL 2/24/99
Date

MINUTES OF THE SENATE EDUCATION COMMITTEE.

The meeting was called to order by Chairperson Senator Barbara Lawrence at 9:00 a.m. on February 15, 1999 in Room 123-S of the Capitol.

All members were present except:

Committee staff present: Avis Swartzman, Revisor
Ben Barrett, Legislative Research
Jackie Breymeyer, Committee Secretary

Conferees appearing before the committee: Rod Bieker, KSDE
Roger Hade, DOC
Cindy Kelly, KASB
Connie Zienkewicz, Families Together
Brenda Parker, Parent, Manhattan, KS
Cynthia Thomas, Parent, Overland Park, KS
Carol Huffman, Parent, Lawrence, KS
Shelly Klein, Parent, Courtland, KS
Leann Wondra, Parent, Hutchinson, KS
Debbie Campbell, Parent
Mimi Nagle, Parent

Others attending: See Attached List

Chairperson Lawrence called the meeting to order and asked Mr. Rod Bieker, KSDE, to lead off testimony on: **SB 129 - concerning exceptional children; relation to the provision of special education and related services**

Mr. Bieker distributed testimony (Attachment 1) and stated that **SB 129** would make the state's special education law meet the requirements of the federal special education law, the Individuals with disabilities Education Act, as amended (IDEA). He referred to page 26, lines 37 - 42, which he stated need to be restored to the current language. He said that unlike last year's bill, this bill does not specify the amount of services to be provided to children attending private schools, it simply provides that school districts will provide such services as are required by state and federal law.

Mr. Bieker also stated that the bill amends the student suspension law to be consistent with federal provisions. It would allow a short-term suspension of up to 10 days if a student brings a weapon or illegal drugs to school or engages in conduct that could result in injury to another person.

Mr. Bieker answered questions and the Chairperson stated she would take the parents, testimony next, as several had traveled to the meeting from out of town.

The following parents submitted testimony in opposition to the consent for placement provision in the bill:

Brenda Parker	Manhattan, Kansas	(<u>Attachment 2</u>)
Cynthia Thomas	Overland Park, Kansas	(<u>Attachment 3</u>)
Shelle Klein	Courtland, Kansas	(<u>Attachment 4</u>)
Leann Wondra	Hutchinson, Kansas	(<u>Attachment 5</u>)
Carol Huffman	Lawrence, Kansas	(<u>Attachment 6</u>)
Debbie Campbell		(<u>Attachment 7</u>)

Mimi Nagle, parent, had no handout but gave testimony in opposition to the bill.

CONTINUATION SHEET

MINUTES OF THE SENATE EDUCATION COMMITTEE, Room 123-S Statehouse, at 9:00 a.m. on February 15, 1999.

Roger Haden, Department of Corrections, was present to speak to the bill and expressed the Department's concern over deletion of the language on page 26, lines 38 to 42. (Attachment 8) He asked the committee's consideration to reinstate the stricken language to provide for continued funding support of special education services for inmates.

Senator Emert moved to amend SB 129, lines 36 through 42 by restoring the stricken language. Senator Langworthy gave a second to the motion. The motion carried.

Cindy Kelly, KASB attorney, appeared in support of the bill, (Attachment 9) and stated that they support compliance with federal law. Current state statutes create state obligations far in excess of what is required by federal law. She urged favorable passage of the bill.

Connie Zienkewicz, Families Together, distributed her testimony and expressed her concerns about the bill. (Attachment 10) Her group finds several problems with removing the mandate to the schools to require parental consent for all changes in placement. Different interpretation could be placed on what changes would require consent and which would not.

Senator Oleen asked Ms. Zienkewicz about a mailing that Families Together had sent out to parents of disabled children and asked if she could have a copy of the letter.

Chairperson Lawrence asked that the letter be provided for the committee. Ms. Zienkewicz responded that she would get the letter to the committee.

The Chairperson stated the committee would continue with the bill tomorrow and also take up **SB 8**.

The meeting was adjourned.

SENATE EDUCATION COMMITTEE GUEST LIST

DATE: February 15, 1999

NAME	REPRESENTING
Cyndy Kelly	KASB
Wenise Ayt	USA
Carol Dermeyer	KSDE
Rodney Bieber	KSDE
Val Al Fever	St Bd of Ed.
Roger HADEN	Ks Dept. of Corrections
Sherry C. Diehl	Ks Advocacy & Protective Services
Oran C. Burnett	USD 501 #
Diane Gjerstad	USD 259
Buenda Parker	Parent
CYNTHIA MARTIN THOMAS	PARENT
Minni Nagle	Parent
Katherine Mickert	USA
Mark Tallman	KASB
Don Jorde	SRS-MH+DD
Joshua Wagner	Parent
RaShelle Klein	Parent
Leann Wondra	Parent
Bob Vanaman	USD 229



Kansas State Department of Education

120 S.E. 10th Avenue
Topeka, Kansas 66612-1182

TO: Senate Education Committee

SUBJECT: SB 129 - Proposed Legislation Making the State
Special Education Law Meet Requirements of the
Federal Special Education Law

DATE: February 1999

My name is Rodney Bieker and I am General Counsel for the State Department of Education. I am here today to discuss with you SB 129 which is this year's version of the bill to make the state's special education law meet the requirements of the federal special education law, the Individuals with Disabilities Education Act, as amended (IDEA).

As you know, Congress provides financial assistance to those states which choose to comply with IDEA. The State of Kansas has chosen to receive these federal funds for over 20 years. Of course, in order to be eligible to receive this federal financial assistance, the state must comply with the various and numerous conditions imposed in the federal law.

In 1997, Congress enacted major amendments to IDEA. It took Congress three years to develop the amendments finally adopted in 1997. The provisions proposed in SB 129 reflect the changes needed to conform state law with federal law.

With two notable exceptions, and minor editorial changes, this bill contains the same provisions as were passed last year by the Senate (See 1998 HB 2837, as amended by the Senate Committee of the Whole.) (One correction is needed--lines 37 to 42 on page 26 need to be restored to the current language.)

Unlike last year's bill, this bill does not specify the amount of services to be provided to children attending private schools. It simply provides that school districts will provide such services as are required by state and federal law.

State law on this subject is prescribed in K.S.A. 72-5392, 5393 and 5394. These statutes are not addressed in SB 129. However, these statutes have been proposed for amendment by the Legislative Budget Committee and will be discussed when this Committee has hearings on Senate Bill 8. But, regardless of the legislature's determination on that bill, SB 129 simply mandates that state law on this subject be followed.

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This bill also varies from last year's bill in that it amends the student suspension law to be consistent with federal provisions. Specifically, state law (72-8902) is amended to allow a short-term suspension of up to 10 days if a student brings a weapon or illegal drugs to school or engages in conduct that results in, or is substantially likely to result in, injury to the student or to another person.

Current law limits a short-term suspension to five days. The additional five days proposed in SB 129 are desperately needed by school districts in order to complete a number of procedures required by federal law if suspension or expulsion of a handicapped student is proposed. I have attached to my testimony a chart which indicates the various steps school districts must follow. These include giving various notices to the parents, meeting with parents to make various determinations, and conducting certain student assessments and evaluations.

School districts need the additional time to comply with the law.

I would be happy to answer questions the Committee might have, and, on behalf of the State Board of Education, I would request your favorable action on SB 129, with the correction to page 26.

WHAT DOES THIS BILL DO?

1. Provides a state special education law which reflects federal special education law, thus assuring the state's compliance with federal requirements.
2. Requires the State Board of Education to oversee and monitor the provision of special education services.
3. Defines key terms such as 1) appropriate public education, 2) special education and 3) related services.
4. Requires that children with disabilities be:
 - located and evaluated; and
 - provided an appropriate public education under a written individualized education program in the least restrictive environment.
5. Grants various rights to parents so they can be activate participants in the education of their disabled children.
6. Provides various procedural safeguards to parents, including the right to request mediation of disputes or due process hearings.
7. Adopts the federal requirements for the establishment of performance goals for children with disabilities and for their participation in state and district-wide assessments.
8. Adopts the federal provisions concerning:
 - discipline of children with disabilities;
 - reporting of crimes;
 - advisory council membership and duties; and
 - interagency agreements for special education services.

WHAT CHANGES ARE MADE TO CURRENT LAW?

Provisions Added to Existing Sections:

- Definitions of additional terms
- Mediation provisions
- Special Education Advisory Council membership
- Requirement to identify and locate exceptional children
- Interagency agreement provisions
- Rights of parents
- Education in the least restrictive environment
- Clarification of 38-1513a on appointment of education advocates
- Provision excusing services for incarcerated 18-21 year olds

New Sections Added on:

- Establishment of performance goals
- Participation in state and district assessments
- Evaluations and reevaluations
- Individualized educational programs (IEPs)
- Parental notices
- Rights at age 18
- Discipline (3 sections)
- Kids not identified - discipline/evaluation
- Reporting criminal acts

Suspension/Expulsion

IDEA STUDENT
Violates Code of Conduct

Conduct informal hearing.
Impose short-term suspension or change placement
to another setting for up to 5 school days.

Deliver written notice of short-term action.
Deliver written notice of reevaluation, including a functional behavioral assessment.
Deliver written notice of formal disciplinary hearing.
Deliver written notice of meeting to discuss:
1) evaluation results;
2) the relationship between the student's behavior and disability;
3) possible change in IEP, including a Behavioral Intervention Plan
or revision of the existing Behavioral Intervention Plan; and
4) possible change in placement.

Within 5 school days, the LEA must conduct a reevaluation, including the functional
behavioral assessment, and collect data for manifestation determination.

Within 5 school days, conduct the IEP/Manifestation Determination meeting.
IEP Team Must Consider:
1. Evaluation/diagnostic results.
2. Observations.
3. IEP/Placement.

"No Manifestation", must determine that
1. IEP/placement were appropriate.
2. Supplementary aids and services were
appropriate.
3. Behavioral Intervention Plan was provided.
4. Student understood impact and
consequences of his/her action.
5. Student could control his/her behavior.

"Manifestation" may exist if the student
1. has exhibited the behaviors in the past
2. is unable to resist peer pressure
3. is unable to build or maintain satisfactory
relationships
4. is unable to express feelings in an appropriate
manner.
5. does not have logical thought processes
6. is not in contact with reality
7. does not understand consequences of behavior
8. misconduct was not premeditated
9. misconduct is an example of the type of
behavioral concerns associated with disability

"No Manifestation":
Student can be suspended or expelled from
school, but LEA must continue FAPE.
Parents have the right to an expedited hearing
on manifestation determination.

"Manifestation":
Student's placement can not be changed except
by IDEA process.
Must continue all educational services.
May not suspend
No disciplinary hearing held

Conduct disciplinary hearing.

Continue implementation of IEP and student stays
put in current placement, unless IDEA process is
followed.

Develop IEP for continuation of FAPE in
alternative setting.

The Senate Education Committee
Re: SB 129 provisions regarding parental consent for placement
February 15, 1999
Topeka, Kansas

Dear Chairperson Lawrence and members of the committee. My name is Brenda Parker. I am from Manhattan, Kansas and appear before you on behalf of my husband and myself as parents of a child with special needs in opposition to the consent for placement provisions of SB 129.

The primary reason given to change current law concerning placement is that it will mirror federal law. Ladies and Gentlemen, that's not good enough.

Throughout this country, Kansas is known as a progressive state when it comes to lawmaking. Given that fact, why would this legislature want to go backward when the federal law (IDEA) has been getting increasingly closer to the law the Kansas legislature has adopted. I don't know of many people sitting in this room who would truly believe the statement "Washington can always do it better." I would also submit to you the current Kansas law as it relates to parental consent for placement has been in effect for several years and has served the state well.

Many of you are parents, so the issue begs a question. How would any of you feel if your child was taken from his or her present school for up to one fourth of their day, and you were merely notified it was happening? Now, consider having a child as in my case who couldn't tell me her teacher was moving her to another location, or why. And where does 25% end? Is it 25% per school year,

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or 25% each time a district chooses to make a change? The proposed language in SB 129 does not answer these and other questions. That's why the proposed change is a bad IDEA (pardon the pun). It's not fair to the parent or the child.

I will not be naive enough to tell you the parent is always right, and the school is always wrong. I will tell you that parents who know their children and have fought for them, even for their very lives, are right many times, and that the current mechanisms for determining placement combined with parental consent are appropriate, needed and foster a much better parent/school relationship. The parent/school relationship is critical for the child's well being, and it's important to remember we're not really here for me as a parent, for you as lawmakers or for the school districts. We're supposed to be here for the kids.

If the parental consent provisions of this bill pass, and unless there is absolute agreement by both parties to enter into mediation, the mechanisms mentioned above left for parents concerning any disagreement of a placement issue will essentially be reduced to one, due process. Under current law, the burden of due process is on the school, where it should be. With SB 129 in its current form, the burden of due process is shifted to parents.

We have had an excellent relationship with our school district. But how many parents would be willing, or able, to take on an entire school district financially in the courts if there is a sincere disagreement with a placement decision for a child. Passing the placement provisions of this bill would put

parents at a tremendous disadvantage. Also, any speculation that passing this bill as currently worded would be less expensive for the state or the school districts is just that, speculation.

As we get ready to reach a new century, as we enjoy a tremendous economy in both Kansas and the nation, it is not a time to turn our backs on some very special kids and their parents. I believe, and I trust you do as well, that things do happen for a reason. I wasn't expecting a child with special needs, but my daughter has been the single greatest teacher I have ever known. She has touched more lives in her short time here than I will ever touch. She has a purpose. She serves society. She has earned our best effort. Please amend the placement provision sections of SB 129. Her life is difficult enough. Thank you.

Primary changes to SB 129

Section 2

~~30 (z) "Substantial change in placement" means the movement of an ex-
31 ceptional child, for more than 25% of the child's school day, from a less
32 restrictive environment to a more restrictive environment or from a more
33 restrictive environment to a less restrictive environment, or the addition
34 to, or deletion from, the child's IEP of a related service or a supplementary
35 aid or service.~~

27 New Sec. 17. (a) The rights of parents of exceptional children shall
28 include, but not be limited to, the rights specified in this section.
29 (b) The parents of exceptional children shall have the right to:
10 (6) consent, or refuse to consent, to the evaluation, reevaluation or
11 the initial placement of their child and to any substantial change in place-
12 ment of their child...

6100 W. 86th Terrace
Overland Park, Kansas 66207
913-383-3035
February 15, 1999

Senate Sub-Committee on Education
1999 Kansas State Legislature

Senators:

Thank you for the opportunity to speak before you today as a parent who is very concerned about the impact of Senate Bill 129 on my child's education and its impact on Kansas in general.

I have been happy and proud to watch as Kansas has moved away from institutions and special programs for people with disabilities towards inclusive programs and places in the community, as I think all Kansans should be.

The success we all share in making this happen, I believe, comes from making parents and families full partners in their children's education. Senate Bill 129 undermines the partnership between education professionals and parents by taking away the incentive for schools to develop such a partnership.

I offer my own experiences with my daughter's former school as an example of why mandated parental consent for placement is so necessary. As a child with many special needs, it was hard at first for any of us to believe that my daughter could ever be educated in a regular classroom. When we did believe, it was hard to get the school district to believe. And, without much support from the district, it was hard for us to take the chance on an unknown, but we did because we knew the school district would need our consent and that together we would have to work through the difficulties.

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And there were difficulties and issues and concerns, but because we had to stay at the table and hash it out, we worked through them.

That process of two equal partners collaborating helped not only to educate my daughter, it gave all the IEP team an education in the art of inclusion. Most importantly it has given my daughter a real chance to be a participating and productive member of her community.

It is my concern that without mandated parental consent, parents will not take a chance on the *least restrictive environment* and the “iffy” related services and supports their child may receive when presented with a choice between that uncertainty and the guarantee of PT or OT or Speech or whichever related service that usually comes with a special program or self-contained classroom, and we will slowly begin to see the movement towards a more inclusive school and community falter.

This may seem like a leap in logic, but I have seen that struggle in the face of a young mother as her child’s IEP team tried to sell her on a special program instead of a regular classroom by telling her about the therapies available, and I know that any Senate bill that does not mandate parental consent ultimately puts a more inclusive society in jeopardy.

The state of Kansas will ultimately bear the dollar and cents costs of the loss of an inclusive society, while children with disabilities and their families will bear the cost daily in a many, many ways.

I ask that you support mandated parental consent and keep parents full partners in their children’s futures by not supporting Senate Bill 129.

Thank you.

Cynthia Thomas

My name is Shelle Klein, I am from Courtland, Ks, I have 2 daughters 13 and 11. My 11 year old is a special education student. Her name is Randi and she is 1 of the 2 most important aspects of my life. To say I am protective over my children is probably accurate. I am a single parent, and I am very involved in every aspect of both of my children's lives. From Alexandria's parent-teacher conferences to Randi's IEP meetings.

To say I am against Senate Bill 129 would be an understatement. I see many reasons that this could be completely detrimental to the children involved. First and foremost I have to ask myself, would anyone dare to place such an arrogant assumption of authority upon a parent of a regular education student, I don't think so! The mere thought of someone telling me where and how my child will be placed is terribly frightening. I have assisted other parents in obtaining services for their children and it is not always a success oriented battle. I have seen parents as well as educators lock horns in power struggles that have very little to do with the child's best interest. I have seen principals try to bully parents into decisions that would have been wonderful for that school but terrible for the child. No, it's not right, unfortunately we don't live in a perfect world and we are all only human & therefore subject to human errors in judgement. The purpose of an IEP is to have everyone involved, the educators, the child, the parents, and the therapists. This bill is suggesting we eliminate 3 vital aspects of this process. As a parent I feel completely violated by the suggestion of this bill. I would never give up custody of my children, why would I allow someone else to make such life altering decisions for myself and child. The ramifications of this bill's passing is scary.

In the worst case scenario you have an educator who doesn't like a child or a parent and therefore takes it out by placing a child in a detrimental situation. In the ideal scenario you would have it left just as it is, if there is a problem with parents neglecting their duties to their children, as far as not attending IEP meetings, you need to realize these are the same parents that don't go to their regular education children's parent-teacher conferences. A simple compromise could be instituted: #1 send a letter with the child or by mail, #2 send letters by certified mail, #3 make a phone call, if after 3 attempts, no response, hold the meeting, if they don't show, appoint a child centered volunteer to review the records and meet with the child. That person could act as a "Guardian ad litem". The process is finished. You have not taken away any right from good parents nor have you harmed a child who has neglectful parents.

This bill is definitely not a progressive action, it does not promote cooperation among parents and educators. This bill basically gives carte blanche to the school system to change placement for my child without my consent, or even my input. I am my child's only ally in her IEP, I have to be not only informed but involved in the whole process. To even assume that I would not want to be or not allowed to be is, to put it nicely, very wrong. As if we did not have enough rights taken from us with our children now. Why would anyone approve such a bill, that so blatantly ignores parental rights and responsibilities?

In order to effectively promote conducive behavior between the parents and school systems, regarding special education students, it is imperative that everyone involved make it absolutely clear, that everyone involved with that child, the parents, the educators, the therapist, are all involved in the IEP process, and if there is a need for a change, they should continue to be involved. Restricting a parent's rights are not beneficial to anyone, not to the child, and, not to the parents. The fact is, that child is the only one who is important in this scenario. The school system's benefit from this is what?

The expense, I don't think so, they write a note on a piece of recycled paper, they set up a meeting, the parents and educators meet, the process is finished. In the last 11 years I have attended 14 IEP meetings. Again, I am a single parent and work several jobs, to try to make ends meet. I have NEVER missed a meeting! To be honest I realize that there is a small percentage of parents that are irresponsible, but please, don't punish the majority for a few's misbehavior!

As a parent and an advocate for students of special education, I have personally witnessed the abuse of power by school systems that try to get away with pulling services. They try it all the time now, if you pass this bill, you will allow them to do it without our consent, what recourse will we have then? That is terribly frightening.

Please do not allow this bill to pass, it would make all the progress we've we've made in the education of children with disabilities all for nothing.

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My name is Leann Wondra and I have driven here this morning from Hutchinson to speak to you as a proud Kansan, educator, and most importantly as a parent of a five year old son with Down Syndrome. As you know, for many years now Kansas law has gone beyond federal law by requiring parental consent for any proposed change of placement . We are looked at as a model to strive for by parents in other states and I am proud to live in a state that holds the rights of parents in such high regards. I am concerned, however, that if Senate Bill 129 passes my rights as a parent of a child with a disability will be reduced. Without parental consent for any change of placement, I can not be an equal member of my son's IEP (Individual Education Plan) team as envisioned in IDEA (Individuals with Disabilities Education Act) '97. Without parental input, I feel any decision regarding change of placement would be incomplete since I know my child better than anyone else. If a change is genuinely needed it should be explained to me and discussed so that it will truly be an informed team decision. Remember, no one has more to gain or to lose than my son and I. Safeguards need to be in place to protect our children from those few individuals who call themselves educators and service providers who do not truly have the children's best interest at heart. We, as parents, need to know too that our child's supports and services are secure and can't be changed without our input. This bill will NOT strengthen parental involvement in schools but instead will set up an adversarial atmosphere between parents and educators and service providers. Parents will be forced to turn to mediation and due process to have differences resolved and more tax dollars will be spent on these avenues of recourse - tax dollars which could be better spent on improving education instead of fighting over it.

In conclusion, I ask that you preserve my parental rights as they are now under Kansas law, keep parental involvement in schools strong, and promote the team concept in our schools by not passing Senate Bill 129.

Help create a better tomorrow for our children by not passing this

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bill today.

Thank you for your time and attention.

Leann Wondra
1620 Marland St.
Hutchinson, KS 67501
(316) 728-0301 home
(316) 663-2671 work



Carol and Dale Huffman

2417 Jacob Ave.
Lawrence, Ks. 66047
U.S.A.

Phone 785-749-1094
E-mail-huffman2@idir.net

February 15, 1999

My name is Carol Huffman I am here today on behalf of my husband Dale, my daughter Becky, and all the other present and future Kansans who believe in the partnership of education. Much has happened over the past twenty to thirty years to enhance the quality of life for those persons living with a disability. The majority of this progress has been in the area of education.

People who have advocated for years to change the placement of children with disabilities within the school system did not benefit directly, time was lost for these kids while the laws were being developed or changed. It was through the persistence of these advocates that our daughter and many other children have the quality of life in schools and community that they deserve and depend upon. Therefore, I always have recognized the fact that in order to continue to develop a fully inclusive state of mind for educators, peers, community, and employment I must continue the pursuit for equality and quality of the educational setting. The problem is I always believed my efforts would need to go towards ways to continue to improve upon the foundation that has already been laid not to protect it. House Bill 129 could set Special Education laws a giant step backwards.

When I speak of partnership in education I am referring to the teamwork that those advocates, whether they are parents, stepparents, grandparents, or appointed advocates, must be an equal member of. It is through these teams that affective educational settings have developed for so many children with disabilities. I know because our family is an active member of such a team. If it were not for Kansas laws that gave us the authority our daughters life at school and in the community could not have been as successful as it has been. There is still much work to be done to continue to enhance the quality of education for all our children, please don't set us back twenty years through this bill.

My husband and I have fought many battles side by side with educators for our daughter to benefit from the current Kansas education laws. It is extremely important that all those person that represent a child with disabilities have equal say in the placement in the educational setting as well as notification. I know if something happened to my husband and I and our daughter would need the support of another person, I would not want that person to have to battle the law to get what she needs from the educational system.. There are so many grandparents, step parents and advocates out here that have the best interest of a child for a fair, least restrictive inclusive setting they don't need or maybe can't handle a unnecessary battle with the education laws. We are asking that the language remain the same and not be changed in Kansas education laws. Lets continue to go forward, not backwards.

Thank you for your time,

Sincerely,



Carol Huffman

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Date: February 15, 1999
To: Senate Sub-Committee on Education
From: Debbie Campbell

Today we are a society that is concerned with providing early intervention and prevention in regard to our children. It is also well known that parental involvement is key to creating healthy educational opportunities and achievements. It is unfortunate then that you would consider changing the right of consent that parents have exercised for many years.

My name is Debbie Campbell and I am a parent with three children. My daughter, Hannah, is an exceptional child with special needs. I recently realized that I have been taking advantage of my parental rights in Kansas- the right to participate in meetings relating to the identification, evaluation, and educational placement of Hannah -after recently moving here from California. It scares me to think about the change you are considering in Senate Bill 129-consent only when there is a "substantial change of placement" as defined by this bill.

Substantial? What is a substantial change? How can it be measured? Every aspect of Hannah's education is equally important, so any change in her educational plan or services is discussed and determined by her team and myself. A cooperative effort between Hannah's educational team and myself is imperative to maintain consistent and meaningful teaching and learning opportunities that enhance her developmental progress. For example, after discussing services regarding her speech and communication it was decided that Hannah would benefit more from a social setting with her peers than one-on-one with a therapist. Speech services would be utilized on a consult basis with her team and parents. This collaboration is proving to be more beneficial for Hannah, and would not have been possible without this team effort. What is done at school is done at home, essentially learning is happening 24 hours a day for Hannah.

I am an active parent; I am able to see the benefits and the positive strides Hannah has gained. These steps forward would not have been possible without the cooperation between Hannah's team and myself. With this in mind I encourage you to consider the effect that a change, great or small, can have for Hannah and other exceptional children.

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STATE OF KANSAS



DEPARTMENT OF CORRECTIONS
OFFICE OF THE SECRETARY
Landon State Office Building
900 S.W. Jackson — Suite 400-N
Topeka, Kansas 66612-1284
(785) 296-3317

Bill Graves
Governor

Charles E. Simmons
Secretary

MEMORANDUM

To: Senate Education Committee
From: Charles E. Simmons, Secretary *CES*
Subject: Senate Bill 129
Date: February 15, 1999

SB 129 amends existing statutory provisions pertaining to special education services. We would like to draw the committee's attention to Section 26 of the bill and make the committee aware of the potential impact of this section on the Department of Corrections' ability to provide these services for eligible inmates.

Section 26 of the bill relates to the determination of state aid for the provision of special education services and provides that "no time spent by a special teacher in connection with duties performed under a contract entered into by the school district with a state institution for the provision of special education services by such state institution shall be counted in making computations" for the special education funding formula.

The department currently provides special education services to the inmate population through a contract provider eligible to receive direct funding support through the state's school finance categorical teacher reimbursement program. As we interpret the amendatory language in Section 26 of the bill, this provision creates the potential for disqualifying that provider from receiving funding support through the school finance formula for special education services to inmates. If this were to occur, the department would need to request additional funds in its budget to make up the loss in order for these services to continue at current levels. For the current fiscal year, the total contract amount for the provision of special education services is \$693,549. Of this total, \$199,545 or approximately 29%, is projected to be provided through the categorical teacher reimbursement formula. A reduction of this amount, if not replaced with additional appropriations, would severely limit the department's ability to provide the required special education services to eligible inmates. We therefore respectfully request that the committee consider a revision to this section to provide for continued funding support of special education services for inmates.

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KANSAS
ASSOCIATION



OF
SCHOOL
BOARDS

1420 SW Arrowhead Road • Topeka, Kansas 66604-4024
785-273-3600

Testimony on S.B. 129
before the
Senate Education Committee
February 15, 1999

by
Cynthia Lutz Kelly
Attorney
Kansas Association of School Boards

Madame Chairman, committee members, thank you for the opportunity to appear in support of S.B. 129 on behalf of the Kansas Association of School Boards and Schools for Quality Education.

This bill, which will bring Kansas in compliance with the existing requirements of federal law, is of great importance to all school districts. Initially I would like to thank the Kansas State Department of Education for allowing us considerable input on the development of this bill. Additionally I would like to thank this committee for the work they did on this bill last year. As a result of those efforts, most of our concerns have been addressed.

However, we do have a remaining concern with Section 8 (a)(3) of this bill, regarding the provision of services to students in private schools. Last year the compliance legislation proposed repeal of the existing state auxiliary services statutes and simply compliance with federal law in this area. We supported that position. The current state auxiliary services statutes create state obligations far in excess of what is required by federal law. We believe the provisions of S.B. 8 more appropriately address this issue, and would urge you to amend the provisions of S.B. 8 into this bill so that all of the issues can be addressed concurrently.

With that amendment, we urge you to recommend S.B. 129 favorably for passage.

*Senate Education
Attachment 9
2-15-99*



Families Together, Inc.

Parent Training & Information Centers for Kansas

Home Page:
<http://www.kansas.net/~family>

Date: February 12, 1999
To: Senate Sub-Committee on Education
From: Connie Zienkewicz, Families Together, Inc.

Wichita Parent &
Administrative Center
3340 W Douglas, Suite 102
Wichita, KS 67203
Voice (316) 945-7747
1-888-815-6364
Fax (316) 945-7795
e-mail: fmin@feist.com

Topeka Parent Center
501 Jackson, Suite 400
Topeka, KS 66603
Voice/TDD (785) 233-4777
1-800-264-6343
Fax (785) 233-4787
e-mail: family@inlandnet.net

Garden City Parent Center
111 Grant
Garden City, KS 67846
Voice/TDD (316) 276-6364
1-888-820-6364
Español (316) 276-2380
Fax (316) 276-3488
e-mail: famtogether@pop.gcnet.com

Kansas City Parent Center
6333 Long, Suite 230
Shawnee, KS 66216
Voice (913) 962-9657
Fax (913) 962-9690
e-mail: kcfam@kc.net

Statewide Spanish Parent Line
1-800-499-9443 (Español)

My name is Connie Zienkewicz, and I am the Executive Director of Families Together, Inc. I am here to speak to you about our concerns about Senate Bill 129.

Last Spring, Families Together, Inc. was part of a group of concerned organizations that worked on compromise language for this legislation as it addresses parental consent for placement. At the time of the compromise, it appears that our understanding was significantly different than that of other members of the group. We had understood the compromise to include placement and services brought to a child in special education. The Kansas regulations have defined "educational placement" as the special education and related services specified in a student's current IEP and the instructional environment in which these services are provided. It is now clear that other members of the group believe that services would not be included in the need for parental consent. Therefore, it is with disappointment that Families Together, Inc. will be unable to support this interpretation of the compromise.

This statute requires that schools obtain consent only for a substantial change of placement. "Substantial change in placement" is defined in the legislation as "the movement of an exceptional child, for more than 25% of the child's school day, from a less restrictive to a more restrictive environment or from a more restrictive to a less restrictive environment, or the addition to, or deletion from, the child's IEP of a related service or a supplementary aid or service." We find that there are several problems with removing the mandate to the schools to require parental consent for all changes in placement. 1) Parents expect to be a part of decisions that impact their child's education. 2) The spirit of the reauthorized federal law, IDEA '97, strengthens the school's requirement to include the parent in educational decisions about their child.

*Senate Education
Attachment 10
2-15-99*
Assisting Parents and Their Sons and Daughters with Disabilities

3) This action by the State will increase the distrust that families have for their school district.

Kansas law and regulation, for many years, has required parental consent whenever the school proposes to make any change in a child's educational placement. Kansas parents are proud of this pro-parent law. If this proposed change in the law is implemented, parents will only have mediation and due process remedies if they disagree with the change that the school is proposing. This will be costly to the state, to parents, and to individual school districts. There is no doubt that Congress had increased "informed and effective" parental involvement in mind with the reauthorization of IDEA. In the parental consent section of the statute the federal law now requires the school to get informed parental consent before conducting a three-year reevaluation. Parents now also have the right to participate in any school meeting concerning the delivery of special education services to their child. In addition, parents of a child with a disability must now be granted an opportunity to participate in meetings with respect to the identification, evaluation, educational placement, and the provision of a free appropriate public education to their child (Section 615 (b) (1)). Clearly, with the reauthorization of the federal law, parents are now expected to be and have the right to be involved in all meetings regarding their child's education.

Parents are continually encouraged by regular education to be more involved in their child's education. However, the proposed Kansas statute for special education will take away a right that parents have and expect to keep.

One of the concerns of the legislature last year was the lack of participation by school districts in the effort to bill Medicaid for medically necessary services provided at school (Medicaid Bundling). One of the reasons that some districts had trouble getting consent from parents to bill Medicaid was a distrust of the services being provided to their children. We believe that this effort to change the consent requirement in special education on the part of the State Department of Education, will be interpreted by parents as another reason for the schools to be mistrusted.

We have grave concerns about how this proposed consent issue will be implemented and monitored. What exactly does 25% mean? There could be many interpretations of which changes would require consent and which would not. If the schools have followed the spirit AND the letter of the law in including parents as active participants in their child's education and have successfully developed a sense of collaboration with the parents, then there should not be any concern about leaving the consent requirement for any change in a child's placement in our State statute.