

MINUTES OF THE HOUSE EDUCATION COMMITTEE

The meeting was called to order by Vice-Chairman Deena Horst at 9:00 A.M. on February 16 2005 in Room 313-S of the Capitol.

All members were present except:

Kathe Decker - Excused

Committee staff present:

Kathie Sparks, Kansas Legislative Research
Carolyn Rampey, Kansas Legislative Research
Ann Deitcher, Committee Secretary

Conferees appearing before the committee:

Rodney Bieker, Gen. Counsel, Ks Dept. Of Ed
Terry Collins, KASEA Chair
Cynthia Kelly, Atty. KASB
Don Wilson, USA
Kevin Siek, Topeka Independent Living Resource Center
Rocky Nichols, Disability Rights Ctr. Of Kansas
Jennifer Schwartz, Lawrence, KS
Lesli Girard, Families Together
Kim Strunk, Ks Council on Disabilities
Rob Loftin, Board of Ed, Weskan, KS

HB 2331 - School districts; relating to provision of special ed.

Appearing before the Committee in regard to **HB 2331** were: Rodney Bieker, (Attachments 1 and 2); Terry Collins, (Attachment 3); Cindy Kelly, (Attachment 4); Don Wilson, (Attachment 5); Kevin Siek, (Attachment 6); Rocky Nichols, (Attachments 7 and 8); Jennifer Schwartz, (Attachment 9); Lesli Girard, (Attachment 10) and Kim Strunk, (Attachment 11).

Written only testimony on **HB 2331** was offered by: Tanya Dorf, (Attachment 12), Deborah Halton, (Attachment 13) and Josie Torrez, (Attachment 14).

Following a questions and answers the hearing on **HB 2331** was closed.

HB 2333 - relating to out-of-state pupils.

Speaking in opposition to **HB 2333** was Robert Loftin. (Attachment 15).

The hearing on **HB 2333** was closed.

The meeting was adjourned at 10:55 a.m. The next meeting is scheduled for Thursday, Feb. 17, 2005.



Office of General Counsel

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TO: House Education Committee

SUBJECT: HB 2331 – Incorporating Recent Changes in the Federal Special Education Law (IDEA) into the State Special Education Law

DATE: February 16, 2005

My name is Rodney Bieker and I am General Counsel for the State Department of Education. I am here today to discuss with you HB 2331 which is a bill to amend the state's special education law to incorporate the recent changes made to the federal special education law, the Individuals with Disabilities Education Act (IDEA).

As you know, Congress provides financial assistance to those states that choose to comply with IDEA. The State of Kansas has chosen to receive these federal funds for over 25 years and in the current fiscal year, we received over \$100 million in federal aid. Of course, to be eligible to receive this federal financial assistance, the state must meet or exceed the federal requirements.

The amendments in this bill are limited to changes that are found in the new federal law. So, if the federal law adds or amends certain provisions, this bill adds or amends those provisions in the state law. If the federal law deletes provisions, this bill likewise deletes those provisions. This bill, however, does not change existing state requirements that exceed federal requirements, i.e., services for gifted children; additional parental consent requirements; and additional services for private school children.

The major areas affected by these amendments concern the following:

- (1) initiating and conducting due process hearings and attempting to resolve issues before a due process hearing is required;
- (2) assuring that children with disabilities are included in state and district-wide assessments so their progress can be measured;
- (3) parental consent for evaluation and for the initial provision of services;
- (4) the conduct of individualized education plan (IEP) meetings and the content of IEP's; and
- (5) numerous matters concerning the discipline of children with disabilities.

I would have you note several technical changes that are needed in the bill which I have identified on an attached sheet.

If the committee has any question about this bill, generally, or about any particular provision of it, I would be glad to respond. Also, I would request your favorable action on this bill.

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Attachment # 1-1

Technical corrections to H.B. 2331

1. On p. 2 in lines 40-41, substitute "designed" for "designated".
2. On p. 2, in line 42, following "IEP", add a comma.
3. On p. 4, in line 4, substitute "need" for "needs".
4. On p. 8, in lines 33-35, no language should be stricken.
5. On p. 9, in line 33, substitute "(b)(2)" for "(a)".
6. On p. 11, in line 33, substitute "parties" for "parents".
7. On p. 12, in line 19, strike "72-992 or".
8. On p. 12, in lines 34-35, strike "K.S.A. 72-991" and
in line 35 immediately before the comma, insert
"section 18".
9. On p. 19, in line 22, substitute "education" for "educational".
10. On p. 21, in line 8, after "achievement", insert "and".
11. On p. 22, in line 1, substitute "on" for "in".
12. On p. 24, in line 1, insert "parents" after the first "the".
13. On p. 27, in line 14, substitute "section 18" for "K.S.A. 72-922".
14. On p. 30, in line 9, preceding the comma, insert "or has refused
services under this law".

Old law

New Law

IDEA '97 - P.L. 105-17

H.R. 1350 as Passed by Congress

paragraph;

(iv) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in clause (iii);

(v)(I) a statement of any individual modifications in the administration of State or districtwide assessments of student achievement that are needed in order for the child to participate in such assessment; and

(II) if the IEP Team determines that the child will not participate in a particular State or districtwide assessment of student achievement (or part of such an assessment), a statement of --

(aa) why that assessment is not appropriate for the child; and
(bb) how the child will be assessed;

(vi) the projected date for the beginning of the services and modifications described in clause (iii), and the anticipated frequency, location, and duration of those services and modifications;

(vii)(I) beginning at age 14, and updated annually, a statement of the transition service needs of the child under the applicable components of the child's IEP that focuses on the child's courses of study (such as participation in advanced-placement courses or a vocational education program);

(II) beginning at age 16 (or younger, if determined appropriate by the IEP Team), a statement of needed transition services for the child, including, when appropriate, a statement of the interagency responsibilities or any needed linkages; and

(III) beginning at least one year before the child reaches the age of majority under State law, a statement that the child has been informed of his or her rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m); and

2 paragraphs ↑ Transition services

this subparagraph;

(V) an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in subclause (IV)(cc);

(VI)(aa) a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16)(A); and

(bb) if the IEP Team determines that the child shall take an alternate assessment on a particular State or districtwide assessment of student achievement, a statement of why--

(AA) the child cannot participate in the regular assessment; and
(BB) the particular alternate assessment selected is appropriate for the child;

(VII) the projected date for the beginning of the services and modifications described in subclause (IV), and the anticipated frequency, location, and duration of those services and modifications; and

(VIII) beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter--

(aa) appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills;

(bb) the transition services (including courses of study) needed to assist the child in reaching those goals; and

(cc) beginning not later than 1 year before the child reaches the age of majority under State law, a statement that the child has been informed of the child's rights under this title, if any, that will transfer to the child on reaching the age of majority under section 615(m).

(ii) RULE OF CONSTRUCTION.--Nothing in this section shall be

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Attachment # 2

only one paragraph

See p. 22, lines 20 to 26 of
HB 2331.



ANW Education Cooperative

710 Bridge, Box 207, Humboldt, Kansas 66748

PHONE (620) 473-2257 FAX (620) 473-2159

Serving Allen, Anderson, Neosho, Wilson and Woodson counties.

Madam Chair and members of the committee, my name is Terry Collins. I am Past President of the Kansas Association of Special Education Administrators, the current Chair for KASEA Legislative Committee and the Director of ANW Special Education Interlocal # 603 at Humboldt. Thank you for this opportunity to speak. I am pleased to inform you on behalf of KASEA that we are in agreement with USA, KASB, and KNEA in support of HB 2331 and in particular with the modifications addressed by Cindy Kelly.

Consent for change of placement is very costly in terms of time, money and paperwork. Ms. Kelly pointed out in her testimony that special education programs are costly and grossly under funded at both the state and federal level. The Federal government has never approached the promised 40% of excess cost.

FY	Students	Teachers	Categorical Aid
'02	76338	6737	\$19,625
'03	78566	6769	\$19,715
'04	79995	6857	\$19,420
'05			\$18,500
Increase	3657	120	-\$ 1,125

19625
~~-19420~~
 205

205 X 6857= \$1,405,658 less than the rate in '02 for '04

19625
~~-18500~~
 1125

1125 X 6857= \$7,714,125 less than the rate in '02 for '05

These are tough financial times for all of us. It therefore seems an appropriate time to consider eliminating services or protections beyond what federal law requires as those services only increase the cost and decrease time for providing direct service which enables students to progress in the general curriculum.

Parents are provided protections in the event of a disagreement. In the first place the parent;

- a) Receives notice of intent to change placement and,
- b) Participates in development of IEP

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Should the parent disagree they have access to;

- c) Advocacy groups
- d) Mediation
- e) Due process

IEP meetings are essential and necessary but they are expensive and time consuming and increase paperwork. At ANW a rough estimate of an average professional salary is \$33.00/hour. There will typically be 6 staff but up to 15—20 may present at a meeting. A one hour meeting, bare bones minimum, cost two hundred dollars if no one has to travel and no preparation is needed. If a parent disagrees with a change in placement an additional series of unnecessary meetings (according to the federal law) will need to be scheduled. For example student A has a written language goal and receives one hour of services in a special classroom. The student is struggling in an English class. The IEP team agrees that more specially designed instruction is needed and should be provided in the special classroom but the parent disagrees and refuses consent. We have had a notice, participation, and the parent received advice from an advocacy group. A typical scenario will involve a time delay. The student will get further behind and another meeting will be scheduled when the student is beginning to fail. The building principal, the special education teacher, a regular teacher, a school psychologist, a social worker and special education administrator and possibly several others will take time away from other tasks and try to convince the parent to consent to change. Psychologists, social workers, speech pathologists are all itinerant and will spend travel time to and from meetings increasing time away from other tasks. All this professional time spent trying to convince a parent takes time for instruction away from regular students and special students while this particular student is failing. There may be several other expensive, additional, unnecessary meetings before the change can be made.

Another frequent example is when a parent is not readily available or chooses not to attend an IEP meeting. Valuable time is lost for students because the change cannot be made until a subsequent meeting is scheduled and the parent appears and agrees.

Time spent at meetings is time away from students. The costs soar and the paper mountain grows. KASEA supports eliminating consent for change of placement.

The same scenario occurs in private schools. Kansas schools are required to provide far in excess of federal requirements. Meetings, paperwork, transportation, additional staff are all unnecessary under the federal law.

For years, both KASEA and USA have supported a fully funded statewide model for gifted education outside of IDEA.

Comparison of Federal vs. State Statutory Requirements Primarily Regarding Private School Issues

Kansas State Requirement

Federal (IDEA) Requirement

Consent required for making substantial changes in placement and/or services	Consent not required. Parent can request a due process hearing
Includes “gifted children” under the special education mandate	Does not include “gifted”; only disabilities
Notice of, and completion of evaluation within 60 days	Notice and evaluation must be completed within a “reasonable time”.
Public schools determine location and delivery of services “in consultation with” private school officials	Public schools determine location and delivery of services “after consultation with” private school official
Public schools determine location and delivery of services to private school students on a “case by case” basis	Public schools determine location and delivery of services
Gifted students are served on the same basis as students with disabilities in private schools	Services to gifted students in private schools are not required.
All students with disabilities or who are gifted are entitled to the same protections and services as those in the public schools.	Public schools may determine not only location but which private school students will receive services.
There are no limits to the expenditures local districts can absorb for services to private school students who are gifted or who have disabilities.	Expenditures for serving only students with disabilities are authorized and only for the proportion of Federal funds that the private schools represent in the districts annual special education count.

On behalf of KASEA, I respectfully request that you consider changing the state requirements so that they “mirror” the federal requirements.

Thank you



Testimony on H. B. 2331
before the
House Education Committee

by

Cynthia Lutz Kelly, Attorney
Kansas Association of School Boards
February 16, 2005

Madam Chair, Members of the Committee, I appreciate the opportunity to appear in support of H.B. 2331. Without the passage of this law, there will be numerous conflicts between state and federal provisions which will make compliance with either law much more difficult. Additionally, changes in federal law which reduce the amount of paperwork involved in special education, shift the focus to student achievement and give schools greater flexibility to ensure safe classrooms for all students are much needed improvements in the law.

Special education programs are costly and grossly underfunded at both the state and federal level. The new federal law explicitly encourages states to reduce the number of additional requirements contained in state law. Provisions of state law that require us to provide services or protections beyond what federal law requires only increase the cost and further dilute services we can provide for all children. It has long been the position of our association that except for the gifted mandate, state mandates should not exceed federal mandates, particularly when neither state nor federal funding come close to covering the excess cost of providing the services. Two provisions in state law are particularly burdensome.

First, K.S.A.72-988(b)(6) requires parental consent to any substantial change in placement or material change in services. Federal law requires parental consent only for evaluation, reevaluation and initial placement in special education services. Changes in federal law prohibit a school district from requesting a due process hearing if a parent refuses to consent to special education services and absolves school districts from liability for not providing services in this situation. In other words, the federal law does not allow schools to force services on a child through due process procedures if the parent rejects the services. The same should be true for a substantial change of placement or a material change of services. Schools should not have to force parents into a due process proceeding if parents refuse to consent to the change. Parents are fully involved in the process: they must have notice of a proposed change of placement or change in services and they must be part of the teams that design the IEP and make placement decisions for the child. Requiring consent requires the school to either provide inappropriate services or force the parents to due process. The law is not intended to function in this manner. Schools should be allowed to implement an appropriate change in a program without parental consent, and parents should have the right to pursue remedies through mediation, due process or the state complaint procedures.

Second, federal law requires that a proportionate share of federal special education funding be spent providing services to students with disabilities who are attending private schools. Kansas law requires much larger expenditures, even when services are provided at the private school site. K.S.A. 72-5393 should be repealed so Kansas requires no more than what federal law requires.

We ask you to recommend HB 2331 favorably for passage, with the amendments we propose in the attached balloon. Thank you for your consideration.

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4.2

1 health impairments, or specific learning disabilities and who, by reason
2 thereof, need special education and related services; and (2) children
3 experiencing one or more developmental delays and, by reason thereof,
4 needs special education and related services if such children are ages three
5 through nine.

6 ~~(aa) "Substantial change in placement" means the movement of an~~
7 ~~exceptional child, for more than 25% of the child's school day, from a~~
8 ~~less restrictive environment to a more restrictive environment or from a~~
9 ~~more restrictive environment to a less restrictive environment.~~

10 ~~(bb) "Material change in services" means an increase or decrease of~~
11 ~~25% or more of the duration or frequency of a special education service,~~
12 ~~a related service or a supplementary aid or a service specified on the IEP~~
13 ~~of an exceptional child.~~

14 ~~(cc) "Developmental delay" means such a deviation from average de-~~ (aa)
15 ~~velopment in one or more of the following developmental areas, as deter-~~
16 ~~mined by appropriate diagnostic instruments and procedures, as indicates~~
17 ~~that special education and related services are required: (1) Physical; (2)~~
18 ~~cognitive; (3) adaptive behavior; (4) communication; or (5) social or~~
19 ~~emotional development.~~

20 ~~(dd) "Homeless children" means "homeless children and youths" as~~ (bb)
21 ~~defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.~~
22 ~~11434a.~~

23 ~~(ee) "Limited English proficient" means an individual who meets the~~ (cc)
24 ~~qualifications specified in section 9101 of the federal elementary and sec-~~
25 ~~ondary education act of 1965, as amended.~~

26 Sec. 2. K.S.A. 72-963 is hereby amended to read as follows: 72-963.
27 The state board shall adopt and administer the state plan. The state board
28 may amend the state plan as necessary. The state plan, and any amend-
29 ments thereto, shall be prepared in consultation with the state advisory
30 council for special education provided for in this act.

31 The state board may adopt rules and regulations for administration of
32 this act and shall adopt rules and regulations necessary to comply with
33 the federal law and to implement the provisions of this act. Any rules and
34 regulations in effect on July 1, 2005, that conflict with federal law or this
35 act are suspended until amended or revoked by the state board.

36 Sec. 3. K.S.A. 72-963a is hereby amended to read as follows: 72-
37 963a. The state board shall:

- 38 (a) Establish procedures, which shall be utilized by each agency, to
39 allow parties to disputes involving any matter described in subsection
40 (b)(4) of K.S.A. 72-988, and amendments thereto, or in ~~K.S.A. 72-992~~
41 ~~section 18~~, and amendments thereto, to resolve such disputes through a
42 mediation process or through due process hearings which meet the
43 requirements of the federal law and this act.

4-2

1 (6) consent, or refuse to consent, to the evaluation, reevaluation or
 2 the initial placement of their child ~~and to any substantial change in place-~~
 3 ~~ment of, or a material change in services for, their child, unless a change~~
 4 ~~in placement of their child is ordered pursuant to the provisions of K.S.A.~~
 5 ~~72-991 section 17, and amendments thereto, or the agency can demon-~~
 6 ~~strate that it has taken reasonable measures to obtain parental consent to~~
 7 ~~a change in placement or services, and the child's parent has failed to~~
 8 ~~respond. If the parent fails to respond to the request for parental consent~~
 9 ~~to a substantial change in placement or a material change in services, the~~
 10 ~~agency must maintain detailed records of written and verbal contacts with~~
 11 ~~the parent and the response, if any, received from the parent;~~

12 (7) be members of any group that makes decisions on the educational
 13 placement of their child;

14 (8) demand that their child remain in the child's current educational
 15 placement pending the outcome of a due process hearing, except as oth-
 16 erwise provided by federal law and this act;

17 (9) *subject to the requirements of this act*, request a due process hear-
 18 ing in regard to any complaint filed in accordance with provision (4) of
 19 this subsection, or as authorized in ~~K.S.A. 72-992 section 18~~, and amend-
 20 ments thereto;

21 (10) appeal to the state board any adverse decision rendered by a
 22 hearing officer in a local due process hearing;

23 (11) appeal to state or federal court any adverse decision rendered
 24 by a review officer in a state-level due process appeal; and

25 (12) recover attorney fees, as provided in the federal law, if they are
 26 the prevailing parties in a due process hearing or court action; however,
 27 only a court shall have the authority to award attorney fees, and such fees
 28 may be reduced or denied in accordance with federal law.

29 (c) The state board shall develop a model form to assist parents in
 30 filing a complaint ~~in accordance with subsection (b)(4) and due process~~
 31 ~~complaint notice.~~

32 (d) The state board shall develop, and thereafter amend as necessary,
 33 and distribute for use by agencies, a ~~list~~ notice of the rights available to
 34 the parents of exceptional children under the federal law and this act.
 35 The ~~list~~ notice shall *include a full explanation of the rights and* be made
 36 available in various languages and be written so as to be easily understand-
 37 able by parents.

38 (e) A list of the rights available to the parents of exceptional children
 39 shall be given to the parents, ~~at a minimum only one time each school~~
 40 ~~year, except a copy also shall be given to the parents:~~ (A) Upon initial
 41 referral or parental request for evaluation ~~and upon reevaluation of the~~
 42 ~~child;~~ (B) ~~upon each notification of an individualized education program~~
 43 ~~meeting;~~ (B) upon request of a parent; and (C) upon registration the initial

Handwritten initials or mark in the top right corner.

1 (d) The state board shall bear the cost of the mediation process de-
2 scribed in this section.

3 (e) Each session in the mediation process shall be scheduled in a
4 timely manner and shall be held in a location that is convenient to the
5 parties to the dispute.

6 (f) ~~An agreement reached by the parties to the dispute in the medi-~~
7 ~~ation process shall be set forth in a written mediation agreement. If the~~
8 ~~mediation process results in a resolution of the complaint, the parties shall~~
9 ~~execute a written agreement that both the parent and an authorized rep-~~
10 ~~resentative of the agency shall sign and that, at a minimum, includes the~~
11 ~~following statements:~~

12 (1) *The resolution of each issue presented in the complaint;*

13 (2) *all discussions that occurred during the mediation process are*
14 *confidential and may not be used as evidence in any subsequent due pro-*
15 *cess hearing or civil proceeding; and*

16 (3) *each party understands that the agreement is legally binding upon*
17 *them; and*

18 (4) *the agreement may be enforced in state or federal court.*

19 (g) Discussions that occur during the mediation process shall be con-
20 fidential and may not be used as evidence in any subsequent due process
21 hearings or civil proceedings ~~and the parties to the mediation process~~
22 ~~may be required to sign a confidentiality pledge prior to the commence-~~
23 ~~ment of such process.~~

24 Sec. 22. K.S.A. 72-962, 72-963, 72-963a, 72-964, 72-965, 72-966, 72-
25 971, 72-973, 72-974, 72-984, 72-985, 72-986, 72-987, 72-988, 72-990, 72-
26 991, 72-992, 72-993, 72-994 ~~and 72-996~~ *and 72-5393* are hereby repealed.

27 Sec. 23. This act shall take effect and be in force from and after its
28 publication in the statute book.

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James L. Menze
Executive Director
jmenze@usa-ks.org

M. Katharine Weickert
Director of
Administrator Services
kweickert@usa-ks.org

Feb. 16, 2005 -- HB 2331

Madame Chair, Members of the House Education Committee

Parental Consent for Change of Placement or Change in Services

Parents are on all IEP teams. We agree parents should be involved in discussion on any changes the professional educators suggest and agree with the law that requires the school to give parents written notification of their intent to make appropriate changes to a student's program. **Federal law does not require parents to give consent to make a change in a student's schedule.** For example, if a student at one of our high schools has a written language goal and is taking a study skills class through special education for one hour a day and they are enrolled in an English class and the team realizes they need more help and plans to increase special education services by sending a special education teacher into the English class daily, the team should discuss this and the parents should get notice of this, but the team should not be required to receive parental consent for this change in placement. **Current Kansas law requires the parents consent before we can increase this service to a student; this requirement is above and beyond what is required by the federal law.**

Private/Parochial Services

Federal law clearly delineates that students who attend a private/parochial school in a school district have the right to services from the school district where the private school is located. This assists districts in determining who has the responsibility for services. For example, the Shawnee Mission school district has approximately 40 private/parochial schools within its district's boundaries. They believe they are responsible for providing the services to those students who require special education, even if they reside in another county or school district. The federal law now clarifies this for us and state law should align with this federal requirement.

However, the federal law does not require public schools to spend more than the private school proportionate share of its federal IDEA funds. Kansas does require full services for private/parochial students. This means the same level of service must be provided to a private school student as those attending public schools. **For example, a district not only has to provide the service to the student attending a private school, but the district must transport the student or the teacher, which incurs additional costs, and it has administrative costs involved in managing services for another school or agency, so spends much more on the private school students for the same level of service.** The federal law does not require the same level of service for private school students as those enrolled in public schools. **Kansas does not mirror the federal law, it requires more therefore costs more than the law intends.**

Don Willson -- Governmental Relations --United School Administrators



Kansas Association of
Elementary
School Principals
(KAESP)

Kansas Association of
Middle School
Administrators
(KAMSA)

Kansas Association of
School Administrators
(KASA)

Kansas Association of
School Business
Officials
(KASBO)

Kansas Association for
Supervision and
Curriculum Development
(KASCD)

Kansas Association of
Special Education
Administrators
(KASEA)

Kansas Association of
Secondary School
Principals
(KASSP)

Kansas Council of
Career and Technical
Education Administrators
(KCCTEA)

Kansas School
Public Relations
Association
(KanSPRA)

House Education Committee

Date: 2-16-05

Attachment # 5



Topeka Independent Living Resource Center

785-233-4572 V/TTY • FAX 785-233-1561 • TOLL FREE 1-800-443-2207
501 SW Jackson Street • Suite 100 • Topeka, KS 66603-3300

Testimony on HB 2331 Before the House Committee on Education February 16, 2005

Chairwoman Decker and members of the committee, thank you for the opportunity to appear before you today. My name is Kevin Siek and I am a disability rights advocate for the Topeka Independent Living Resource Center. Our agency is a civil and human rights organization with a mission to advocate for justice, equality and essential services for all people with disabilities.

I am here today to provide testimony on HB 2331. The purpose of this bill is to bring our state law into compliance with recent changes to the federal Individuals with Disabilities Education Act (IDEA). While we appreciate the hard work that the Department of Education has put into this bill we are concerned that we are acting too hastily in making major changes to our state law that could profoundly affect children with disabilities for many years to come. Changes to the federal law create a “sub-floor” for educational standards, not necessarily the standards that are appropriate for Kansas’ kids.

We still have another year to bring our state law into compliance with IDEA. We recommend that this legislation be studied during the interim session to allow ample time for all concerned parties to provide input and for legislators to craft a bill that will ensure that we have a bill that insures and protects the rights of our children with disabilities to the fullest extent possible, within the constraints of the changes to IDEA.

Let’s make sure we get it right the first time so that children with disabilities are not adversely affected by our hasty decisions.

House Education Committee

Date: 2-16-05

Advocacy and services provided by and for people v Attachment # 6



Disability Rights Center of Kansas

3745 SW Wanamaker Road ♦ Topeka, KS 66610

785.273.9661 ♦ 877.776.1541 (V/TDD)

785.273.9414 FAX ♦ www.drckansas.org

info@drckansas.org

Testimony to the House Education Committee

February 15, 2005

Chairman Decker and members of the committee, my name is Rocky Nichols. I am the Executive Director of the Disability Rights Center of Kansas, formerly Kansas Advocacy and Protective Services (KAPS). The Disability Rights Center of Kansas (DRC) is a public interest legal advocacy agency, part of a national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. As such, DRC is the officially designated protection and advocacy system for Kansans with disabilities. DRC is a private, 501(c)(3) nonprofit corporation, organizationally independent of both state government and disability service providers. As the federally designated protection and advocacy system for Kansans with disabilities our task is to advocate for the legal and civil rights of persons with disabilities as promised by federal, state and local laws, including children using special education services.

DRC opposes passage of HB 2331.

KSDE has stated publicly, and we absolutely agree, that the Kansas Legislature does not have to pass a bill this year to bring Kansas into “conformity” with the latest reauthorization of the Individuals with Disabilities Education Act (IDEA 2004). Therefore, the Kansas Legislature should take the time to ensure that Kansas has the best conforming special education law possible. The federal law was signed into law only recently and the regulations have not even been developed. Additionally, and perhaps most importantly, this bill has a fairly significant policy change regarding Transition services planning that is not required by IDEA 2004. If this bill is being called “conformity” bill to bring Kansas into compliance with IDEA 2004, this policy change regarding Transition services planning is unnecessary and unwise. In fact, the Transition services planning policy contained in HB 2331 is a **new policy** regarding that is not

House Education Committee

The Official Protection and Advocacy System for K Date: 2-16-05

Attachment # 7-1

required by IDEA 2004. The current policy conforms to IDEA 2004, and is far better for students with disabilities.

DRC strongly recommends that Kansas handles this IDEA reauthorization bill the same way it has handled other IDEA reauthorizations – by taking the time to include all stakeholders in the development of new state policies, and taking the time to be certain that what is developed is in the best interest of students with disabilities. We have the time, let's do this right.

Please note that my comments today will be limited to conformity issues and opportunities, and not other needed changes to Kansas special education law. DRC along with dozens of other disability organizations published an extensive white paper on the problems with Kansas special education law and policy solutions to address those problems. Because this is a “conformity” bill, however, discussion on those issues is for another day.

DRC's Three Major Concerns Specific to HB 2331 and Conformity Issues.

1. TRANSITION PLANNING AT AGE 14 IS IMPERATIVE TO OUR CHILDRENS' SUCCESS:

Page 22, Section 14, KSA 72-987(c)(8). This section deals with Transition plans and services. IDEA 2004 states that transition services and planning must start “no later” than 16 years old. Current state policy, which we are told also pre-dates the reauthorization *before* IDEA 2004 in the form of pilot projects, has transition planning starting at age 14. IDEA 2004 allows for States to have transition planning start at age 14, which is the current policy of Kansas. The KSDE bill draft unnecessarily changes the current policy and eliminates transition planning for 14 and 15 year old youth receiving special education services. **Given the fact that the last on-site audit conducted by the U.S. Department of Education and KSDE's own 2002 self assessment cited Kansas for being non-compliant in Transition, this unnecessary change with Transition planning is troubling to the disability community. These audits specifically found compliance issues with transition planning. So what is the response in this bill to these blatant problems with transition planning during the critical years of 14 to 16? Eliminate the requirement for transition planning from 14 to 16! This is a**

substantial change and unnecessary change in the current policy on Transition planning, and one we believe the Kansas Legislature should not advance.

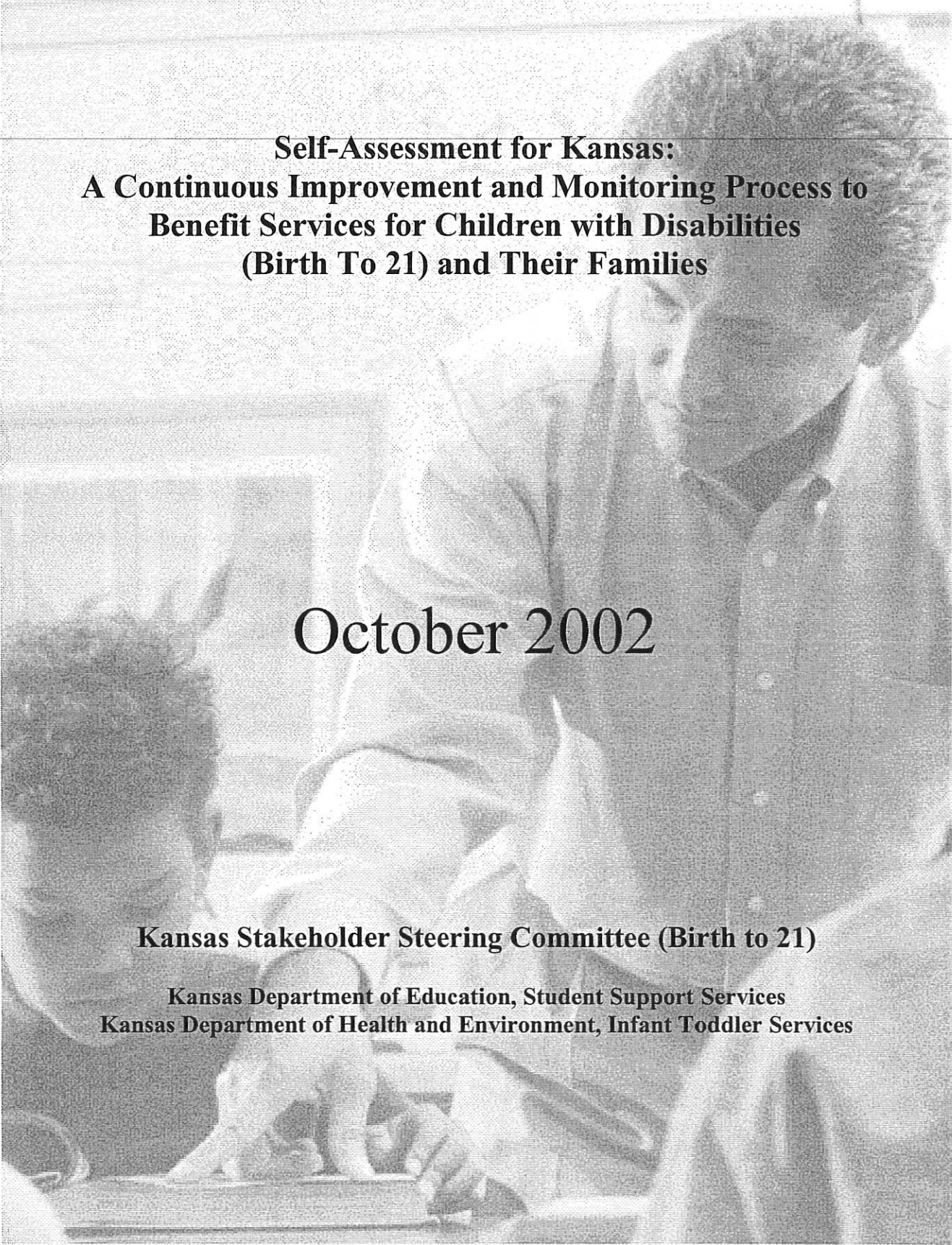
2. FOSTER PARENTS ARE PARENTS, AND SHOULD NOT BE EXCLUDED:

Page 2, line 10, Section 1, (m) Foster parents. New Federal law allows foster parents to be involved in the planning and programming of special education services for foster children under their control. HB 2331 does not allow foster parents to have this higher level of involvement (which is allowed under federal law). All trained and educational advocates have the ability to be involved under HB 2331, regardless of whether they are a foster parent or not. Given the long, rich history in our state of trying to involve and support foster parents, this portion of HB 2331 seems out of sync with Kansas values and policy. Federal law now allows this important involvement by foster parents. DRC recommends that foster parents be allowed to act as a parent in those cases where the best interest of the child can be served. In many cases, the foster parent is the one person consistently advocating for the best interest of the child, are the only “parent” available to support the IEP and are connected to the child on a daily basis. The foster parent is very often able to meet the parenting needs of the child enrolled in special education programs without the appointment by KSDE as an educational advocate.

3. NO CHANGE IS REQUIRED THIS YEAR. WE SHOULD TAKE TIME TO GET THESE CHANGES IN SPECIAL EDUCATION LAW RIGHT.

The three issues identified here are the most concerning to DRC and other education advocates. However, they are not by any means the only concerns we have with HB 2331. HB 2331 is an unnecessarily hurried piece of legislation. Kansas can and should do better by taking the time to fully discuss the needs of Kansas’ children with disabilities who utilize special education services. Parents, students and advocates, who know the system best, want to have a meaningful dialogue about how the special education system in Kansas should respond to student needs, and how Kansas should conform to IDEA 2004. **DRC urges this committee to carry over HB 2331 until next legislative session.**

FAPE	Compliant
ESY	No Information
Related Services	No Information
Length of School Day	No Information
Provision of Special Education/Program Options Available	No Information
LRE	Noncompliant
Ed. w/Nondis./Removal only when Aids/Services Standard Met	Noncompliant
Nonacademic & Extracurricular	No Information
Placement Based on IEP	No Information
Continuum Available to Extent Necessary	No Information
Placement Determined at Least Annually	No Information
If no LRE Noncompliance, was Segregated School Visited?	N/A
Was School for the Blind or Deaf Visited?	No
Was Private Segregated School Visited?	No
Were Files of Students Placed out of State Reviewed?	No
IEPs	Compliant
Content	No Information
Meetings	No Information
* Transition Services	Noncompliant
Notice	Noncompliant
Statement of Needed Services	Noncompliant
Meeting Participants	Noncompliant
General Supervision	Noncompliant
Incarcerated Students	No Information
Review & Approval of LEA Applications	Compliant
Complaint Management	Noncompliant
Resolved within 60 Days	No Information
Resolve Any Complaint	Noncompliant
State Monitoring of LEAs	Compliant
Method to Determine Compliance	No Information
# of Requirements Lacking Method	
Complete Method to Determine Compliance	No Information
# of Requirements Lacking Complete Method	
Effective Method for Identifying Deficiencies	No Information
# of Discrepancies between Federal & State Monitoring	
Correction of Deficiencies	No Information
Procedural Safeguards	Noncompliant
Hearing Decisions within 45 Days	Noncompliant
Content of Notice	Noncompliant
Prior Notice/Parent Consent	Noncompliant
Establishment of Procedural Safeguards	No Information
Protection in Evaluation	No Information



**Self-Assessment for Kansas:
A Continuous Improvement and Monitoring Process to
Benefit Services for Children with Disabilities
(Birth To 21) and Their Families**

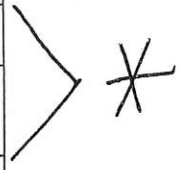
October 2002

Kansas Stakeholder Steering Committee (Birth to 21)

**Kansas Department of Education, Student Support Services
Kansas Department of Health and Environment, Infant Toddler Services**

- KSDE will work with LEAs to develop models for statements of transition services that specify course of study.
- KSDE must ensure that technical assistance and resources developed for LEAs focuses more on student outcomes than documentation.
- KSDE is exploring ways to improve data collection in the transition area.
 - KSDE is considering the use of the baseline data currently being collected with the Transition Outcomes Project as data that can be used to develop a follow-up study. The study will be able to correlate the relationship between activities and strategies on student IEPs and attainment of post-school outcomes.
 - KSDE has added follow-up data as a requirement for the CIM. Models of data collection for district follow-up evaluation are being developed.
 - KSDE will continue to collaboratively coordinate to cosponsor the Statewide Transition Conference as one method for dissemination and networking of practitioners.
 - KSDE will assist districts in working with partner agencies so students receive appropriate services after graduation.

Secondary Transition			
Component: BT.II			Validated Steering Committee Rating:
Are youth with disabilities participants in appropriate transition planning?			Needs Improvement
Strength	Meets Requirements	Needs Improvement	KSDE non-compliant Non-Compliance



Data Sources:

- Continuous Improvement Monitoring - On-Site File Review Monitoring Data
- Continuous Improvement Monitoring - Parent Survey
- Kansas Transition Outcomes Project (KTOP) File Review

Baseline Data and Analysis:

Table 65 – STUDENT INVOLVEMENT IN TRANSITION IEP MEETINGS
(CIM PARENT SURVEYS)

Response	Frequency	Percent
Yes	235	59
No	53	13
Don't Know/NA	108	27



- Table 65 data are based on CIM Parent Survey question #6, which is “By my child’s 16th birthday, both my child and I were involved in an IEP meeting to consider and/or plan the transition from school to life and work experience after leaving high school.”
- Survey results show that, of the parents who responded to the survey, 59% indicated they and their child had participated in a meeting addressing transition services by their student’s 16th birthday. The 27% of parents who did not know if they had participated in such a meeting is a concern.

- KSDE provides a technical assistance resource, *A Guide from School to Post-School Outcomes*, as a resource to the field on secondary transition requirements, and as an improvement strategy for the previous OSEP monitoring for Kansas.
- KSDE works with Mountain Plains Regional Resource Center technical assistance staff and participates in the Transition Outcomes Project. To date, 17 LEAs are involved in the project.
- KSDE sponsors a statewide conference on transition (2001-2002), which brings educators, parents, students, and transition service providers together to share information and resources.

BT.II Component Concerns:

- * • Participation of outside agencies in transition services planning is a finding in the most recent Kansas OSEP monitoring report and continues to be a concern. Data from the Kansas Transition Outcomes Project indicate this is still an area for improvement.
- * • Previous OSEP monitoring findings for KSDE report that notices of invitation to IEP meetings fail to indicate that a purpose of the meeting is to consider transition services, and that the notices fail to indicate that the student is invited to the meeting. This area has shown improvement, however Kansas Transition Outcomes Project data indicate further improvement must be demonstrated.
- * • Data indicate that approximately 30% or more of parents and students may not be involved in transition planning as part of the IEP meeting, at the least, their participation is not documented.

BT.II Summary
<p>Student participation evidenced by attending IEP meetings is an area for improvement. Additionally, evidence suggests that transition services are not appropriately addressed. Data from the CIM, the Kansas Transition Outcomes Project, and the CIM Parent Survey indicate that the statement of needed transition services for students age 16 and over is not adequately addressed. Before technical assistance is increased, KSDE needs to determine where and how to focus the assistance to make a difference for student outcomes and documentation.</p>
<p>Results from other states participating in the Transition Outcomes Project indicate that Kansas transition planning issues are similar to issues in other states. The fact that Montana was able to achieve such remarkable results through the Transition Outcomes Project suggests that Kansas is on the right track by participating in the project and working with LEAs to evaluate how well transition is being addressed within local districts.</p>
<p>With limited effect, in the last 10 years Kansas has invested significant time and resources to improve the transition outcomes for students. KSDE staff believes participating in the Transition Outcomes Project is a positive step. Kansas must allocate resources for only quality transition projects that have proven to be effective.</p>
<p>Here again, the KSDE staff has lowered the rating that was validated by the Steering Committee. The explanation of the discrepancy is the same as for BT.1. Kansas will make improvements in providing appropriate transition services!</p>

Table 66 – STUDENT INVOLVEMENT IN TRANSITION IEP MEETINGS
(KTOP FILE REVIEW)

Response	Frequency	Percent
Yes	159	69
No	73	31

- Table 66 data are based on the KTOP file review question #2, which is “Did the student attend the IEP meeting?”
- Results of the file review indicate that 69% of the students age 14 and over attended their IEP meetings.

Table 67 – STATEMENT OF NEEDED TRANSITION SERVICES IN THE IEP
(KTOP FILE REVIEW)

Response	Frequency	Percent
Yes	150	65
No	71	31
Don't know/NA	8	3

- Table 67 data are based on KTOP file review question #13, which is “Does the IEP include a statement of needed transition services?”
- Results of the KTOP file review show, of the 231 files reviewed, 65% of the files for students age 16 and over included a statement of needed transition services.
- KSDE staff and secondary service providers who have attended the Transition Outcomes Project training are encouraged by the potential for improvement. Because of their involvement with the Transition Outcomes Project, school districts in Montana and Wyoming have made great strides in meeting the file requirements and providing the student services that are needed.

BT.II Component Conclusion

Steering Committee Comments during Validation of BT.II
The Steering Committee overall agrees and validates the ratings for this component. Data and analysis portray the state overall. [Note: KSDE staff does not concur with the rating]

BT.II Component Strengths:

- The percent of students who participate in their own transition planning has increased during the last 5 years.
- The State Transition Council is active, and 31 Local Transition Councils exist throughout Kansas. These local councils continue to provide assistance in supporting and improving transition services at the local level.
- Kansas received a State Improvement Grant (SIG) in 1999, and 1 of its 6 goals is for transition. Through SIG activities, KSDE has initiated the Kansas Transition Outcomes Project, helping to collect additional data regarding transition requirements.
- KSDE developed a sample transition IEP format for students age 14 and over, which is included in the Special Education Process Handbook. This sample guides LEAs to confirm that their IEPs include documentation of all transition requirements.

of Mental Health and Developmental Disabilities. For more information contact the Student Support Services Team, KSDE, 120 SE 10th Avenue, Topeka, KS 66612 or call (785) 296-3869.

Overview of Needs

The following twelve topics summarize the needs identified by the Kansas State Improvement Plan (1998) needs analysis:

- (1) **Curriculum and instruction:** A common issue raised in the stakeholder discussions was that special and general education teachers must demonstrate mastery of curricular and instructional strategies needed to effectively educate children with disabilities
- (2) **Effective behavioral interventions:** Based on increasing concern about school violence, Kansas stakeholders also indicated that special education teachers must be better prepared to implement effective behavioral interventions for individuals and school-wide.
- (3) **Access to research-validated practices:** The third priority identified by Kansas's stakeholders was that teachers must be able to access research - validated instructional strategies and practices. The University of Kansas' Academy for Translating Research into Practice in Preservice Education funded by the Office of Special Education Programs, provides a highly promising resource to assist teachers in accessing research-validated strategies in the areas of reading, positive behavioral supports, and technology.
- (4) **Interprofessional training:** A fourth priority for improved content to provide interprofessional training in both preservice education and professional development in Kansas grows from the need to meet the challenges of changing population demographics.
- (5) **Families:** Kansas stakeholders indicated that educators need to be better prepared to interact with families and to see families as a key resource to the educational process.
- (6) **Preparation of administrators:** Educational administrators play a key role in terms of establishing a positive school environment that reflects and supports high expectations for student achievement and behaviors
- (7) **Preparation of general education teachers:** Another priority for Kansas is preparation of general education teachers to anticipate that students with disabilities will be in their classes. Teachers need to feel competent to serve those students and know how to access necessary supports from special education.
- (8) **Transition:** A pervasive need noted by Kansas's stakeholders and by research in Kansas is for improved preparation of educators to support students in the transition to adulthood.
- (9) **Early childhood special education:** The 1997 needs assessment in this area led to identification of the following priorities for inservice: preventive behavior management, finding and using resources, providing information to families, building effective teams, choosing quality measurements, alternate assessment strategies, transition planning for children entering kindergarten.

*

House Education Committee
Kathe Decker, Chair
HB 2331
February 16, 2005

Good morning, thank you for the opportunity to testify concerning HB 2331. This legislation works to bring the Kansas Special Education statute into conformity with the recently passed federal special education law, IDEA (Individuals with Disabilities Education Act).

First let me begin with telling you a bit about our family. We have three children, Jessica, our oldest is 13 and a 7th grade student at Southwest Junior High in Lawrence. Jessica is diagnosed with cerebral palsy and has qualified for school special education services since the age of three. Before this she received Infant-Toddler services. We have worked diligently to be active members of Jessica's IEP team, and our family considers her education one of our top priorities.

We have two main concerns with HB 2331.

First, the State Department of Education seems to have some urgency in having legislation passed this year. From our understanding the OSEP Office of Special Education Policy (OSEP) plan to have their first draft of regulations related to IDEA out by December 2005. The process has just begun. We would like to see the Kansas Department of Education pull together a group of stakeholders to which would include transition age students, parents, State Department of Education staff, teachers, and advocacy groups. This group would go over the changes that IDEA and this bill would bring for students with disabilities. We would ask that the State Department of Education would be patient and thoughtful when putting together this bill, so that we can continue to have a good statute and that students with disabilities continue to get adequate education.

Our second concern is with the section that addresses transition services for students with disabilities. Currently Kansas begins transition services for students in special education at age 14. This bill would raise the age to 16, which would adversely effect on students with disabilities. This is one section of the current law in which Kansas has gone above the letter of the law, and done what is right for students in our state. As I mentioned earlier our oldest, Jessica is 13. She began junior high school this year, and it has been quite a change. It is amazing to think that Jessica only has six years left in her educational career. Oh! My! Goodness!

At Jessica's IEP meeting this year we began to talk about transition. We know that things in Jessica's life typically take careful, thoughtful planning. Anything is possible for this child, but it usually takes some time! Last summer Jessica began to volunteer at places in Lawrence, so that she can experience certain

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career fields and we can evaluate if these are things she might be interested in for a possible career. So, before age 13 we are beginning to think and talk about potential transition services that might be beneficial for Jessica. She is a young woman that is very capable of achieving her hopes and dreams, but needs folks there in her life to help facilitate this.

In conclusion, our family would ask for this committee's consideration for our request to hold this bill. We would like for the State Department of Education to take time to convene a stakeholders group to review this bill and provide the best educational services that we can to the children in Kansas.

Thank you so much for your time!

Jennifer Schwartz
2529 Maverick Lane
Lawrence, KS 66046
785-832-8353
jennifers@kacil.org



Families Together, Inc.

Parent Training & Information Centers for Kansas

Home Page:
<http://www.familiestogetherinc.org>

Wichita Parent &
Administrative Center
3033 W. 2nd, Suite 106
Wichita, KS 67203
Voice/TDD (316) 945-7747
1-888-815-6364
Fax (316) 945-7795
wichita@familiestogetherinc.org

Topeka Parent Center
501 Jackson, Suite 400
Topeka, KS 66603
Voice/TDD (785) 233-4777
1-800-264-6343
Fax (785) 233-4787
topeka@familiestogetherinc.org

Garden City Parent Center
111 Grant
Garden City, KS 67846
Voice/TDD (620) 276-6364
1-888-820-6364
Español (620) 276-2380
Fax (620) 276-3488
gardencity@familiestogetherinc.org

Kansas City Parent Center
1333 Meadowlark Ln., Suite 103
Kansas City, KS 66102
Voice/TDD (913) 287-1970
1-877-499-5369
Fax (913) 287-1972
kansascity@familiestogetherinc.org

Statewide Spanish Parent Line
1-800-499-9443

House Education Committee Representative Kathe Decker, Chairperson

February 16, 2005

Testimony in regard to HB 2331

Madam Chair and members of the committee, thank you for the opportunity to speak with you today. My name is Lesli Girard, and I represent Families Together, Inc. Families Together is a statewide nonprofit organization that assists parents and their sons and daughters that have disabilities. Families Together is the federally funded Parent Training and Information Center for Kansas; we have offices in Topeka, Wichita, Garden City and Kansas City. We also receive funding through SRS, the Kansas State Department of Education, and the Kansas Department of Health and Environment for various programs and services designed to meet the needs of families that we serve. Staff members of Families Together talk with families across Kansas daily about issues and concerns regarding their child's disability, including acceptance and awareness, education, service delivery, health needs, parents' rights, and funding sources.

Families Together has concerns about HB 2331. The primary reason for our concern is that we have not had sufficient time to study and more fully understand the changes made in the recently enacted Individuals with Disabilities Education Act of 2004 (IDEA). The Act makes a number of changes affecting the education of students with disabilities. The Federal Office of Special Education Programs (OSEP) has made clear its intent to draft and finalize regulations for the new act as quickly as possible. The goal of OSEP is to have the regulation process completed by December of 2005. In my opinion it would be prudent of us to utilize the coming months to become more familiar with the changes to the IDEA and obtain further clarification of federal regulations before reworking our state statute.

Currently nearly all States have laws and regulations that provide students with disabilities and their parents rights and protections that exceed minimal Federal requirements. We at Families Together believe that State and local policymakers need to work with local school district administrators, teachers and parents to preserve and protect these State laws and encourage best practices. Certainly I understand that Kansas must comply with the federal statute. However, I believe also that Kansas may continue to exercise leadership and autonomy by providing

Assisting Parents and Their Sons and Dau

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its concerned citizens adequate time to carefully consider the provision of special education and related services in our state. Transition services for students with exceptionalities is one area where Kansas policymakers will likely wish to have more time to consider the impact of changes made at the federal level. The removal of transition planning beginning at 14 years of age, or younger if appropriate, is disappointing. At a time when it is crucial to keep kids engaged, and to reduce the chance of losing at risk kids to drop outs, it is very important that we ensure that educators, parents and students are openly discussing plans for the future. In approximately 1992, Kansas included this transition planning at age 14 as part of our state statute. Over a decade later, we must remain committed to starting this planning at the most opportune time, thus leading to better outcomes for students.

Transition is only one example of where current State law is more protective of our students. Perhaps one approach to carefully considering our state statute would be to assign a task force of stakeholders to review state laws and rules that go beyond minimal Federal requirements and to have the task force report back during the next legislative session.

Thank you for the opportunity to provide this testimony, and I would be happy to stand for questions.

Lesli Girard, Coordinator
Families Together, Inc.
501 Jackson, Suite 400
Topeka, KS 66603
785-233-4777



Kansas Council on Developmental Disabilities

KATHLEEN SEBELIUS, Governor
DONNA BEAUCHAMP, Chairperson
JANE RHYS, Ph. D., Executive Director
kcdd@alltel.net

Docking State Off. Bldg., Room 141, 915 SW Harrison
Topeka, KS 66612-1570
Phone (785) 296-2608, FAX (785) 296-2861
<http://nekesc.org/kcdd>

"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

SOCIAL SERVICES BUDGET SUBCOMMITTEE

February 15, 2005

Room 313S

Madame Chairperson, Members of the Committee, my name is Kim Strunk and I represent the Kansas Council on Developmental Disabilities. I am here to speak about HB 2331.

The Kansas Council is federally mandated and federally funded under the Developmental Disabilities Assistance and Bill of Rights Act of 2000. We receive no state funds. The Council is composed of individuals appointed by the Governor, including representatives of the major agencies who provide services for individuals with developmental disabilities. At least 60% of the membership consists of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities to receive adequate supports to make choices about where they live, work, and learn.

In 1992 Kansas decided that children with disabilities transition services needed to begin at the age of 14, to help them be better prepared for their transition into the adult world by the time that they graduate from high school. In 1997 in the Reauthorization of IDEA, the Congress chose to move their age of 16 back and to begin transition services at 14 also. This is an area that Kansas legislature chose and it has allowed Kansas educators to do a much better job of transitioning students who receive Special Education Services and preparing our young Kansans to live more productive lives. In the newest reauthorization Congress has changed the age of transition back to 16. This is just one of the many changes proposed in the new Reauthorization of IDEA and is being recommended in this bill. The Kansas Legislature stepped above and beyond what Congress expected in 1992 looking out for what was best for children with disabilities and I just want to thank you and let you know that we would like to see the transition age at left at 14.

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As of today the US Office of Education (OSEP) is currently drafting the new regulations. Given that we do not have the regulations, why are we rushing to change Kansas statute? Wouldn't it make more sense to wait for the regulations so that we better understand the intent of the IDEA changes, and incorporate them into our state law.

As always, we greatly appreciate the opportunity to speak to you and would be happy to answer any questions.

Kim Strunk, Partners in Policymaking Coordinator
Kansas Council on Developmental Disabilities
Docking State Office Building, Room 141
915 SW Harrison
Topeka, KS 66612-1570
785 296-2608
partnersinpolicy@alltel.net



Member Agencies:

Center for Independent Living for Southwest Kansas
Garden City, KS
620/276-1900 Voice

Coalition for Independence
Kansas City, KS
913/321-5140 Voice/TT

ILC of Northeast Kansas
Atchison, KS
913/367-1830 Voice

Independent Living Resource Center
Wichita, KS
316/942-6300 Voice/TT

Independence, Inc.
Lawrence, KS
785/841-0333 Voice
785/841-1046 TT

Independent Connection/OCCK
Salina, KS
785/827-9383 Voice/TT

LINK, Inc.
Hays, KS
785/625-6942 Voice/TT

Prairie Independent Living Resource Center
Hutchinson, KS
620/663-3989 Voice

Resource Center for Independent Living, Inc.
Osage City, KS
785/528-3105 Voice

Southeast Kansas Independent Living, Inc.
Parsons, KS
620/421-5502 Voice
620/421-6551 TT

The Whole Person, Inc.
Kansas City, MO
816/561-0304 Voice
816/531-7749 TT

Three Rivers ILC
Wamego, KS
785/456-9915 Voice

**House Education Committee
Representative Kathe Decker, Chair
HB 2331
February 16, 2005**

Chairperson Decker and members of the Committee, thank you for the opportunity to provide this testimony to you regarding HB 2331, an act concerning the provision of special education in Kansas. My name is Tanya Dorf, and I serve as the Chair of the Governmental Affairs Committee for the Kansas Association of Centers for Independent Living (KACIL). I am also the Executive Director of one of the twelve Centers for Independent Living (CILs) KACIL represents.

Centers for Independent Living provide services to people with disabilities of all ages. CILs also provide assistance to businesses and all other entities in the community to assist them in offering services to people with disabilities. We advocate at a state and national level for the rights of all people with disabilities to live in the communities of their choice.

Our greatest concern with HB 2331 is that stakeholders were not consulted or educated on this bill and the changes it makes to the current special education statute in our state. Centers for Independent Living receive many phone calls from parents that are very frustrated with the special education system, and often it is due to the lack of communication between schools and families. This legislation could be the same situation with lack of communication between KSDE and stakeholders. We would like to see the Department convene a stakeholders meeting to avoid this frustrating situation. We believe that this group should include transition age students with disabilities, parents, State Department of Education staff, teachers, and advocacy groups. This group would be able to look at the changes that are needed in the current statute and understand why those changes need to happen.

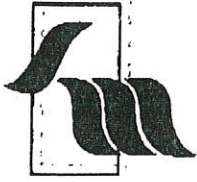
We have been fortunate in Kansas that we pride ourselves in education for *ALL* students. There are some parts of the current special education law that Kansas has chosen to go above what is required by the Federal government. We want to make sure that we can maintain this effort and continue to have the strong dedication to special education in our state.

KACIL would ask for this committee's consideration to hold this bill until the Kansas State Department of Education has held a meeting with key stakeholders concerning the changes this bill would have for students in Kansas that qualify for special education.

Thank you for your time

Tanya Dorf, Chair
KACIL Governmental Affairs Committee
Independence, Inc.
2001 Haskell Ave
Lawrence, KS 66046
(785)841-0333
tanyad@independenceinc.org

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Where Learning is a Tradition

Special Education
Shawnee Mission Public Schools
4401 West 103rd Street
Shawnee Mission, Kansas 66207-3618
(913) 993-8600 FAX (913) 993-8614

Department of
Special Education

February 15, 2005

Kathy Decker
Room 303 North
State Capitol
Topeka, KS 66612

RE: Support for HB 2331

Madame Chair:

Thank you for allowing my comments to be entered into the record in support of House Bill No. 2331, with a few minor changes. I am a special education director and speak on behalf of students with disabilities, their families and our staff who serve them, in the Shawnee Mission School District.

The Kansas Association of School Boards (KASB) is speaking in favor of passage of HB 2331, and I echo their concerns about two very important issues where Kansas law would require more than the federal mandate. The two issues of concern involve Parental Consent and Private/Parochial services. I offer two examples of how the wording in this current bill will create a different intent than is mandated in the federal law.

Parental Consent for Change of Placement or Change in Services

In Shawnee Mission, parents are on all IEP teams. We agree parents should be involved in discussion on any changes the professional educators suggest and agree with the law that requires the school to give parents written notification of their intent to make appropriate changes to a student's program. Federal law does not require parents to give consent to make a change in a student's schedule. For example, if a student at one of our high schools has a written language goal and is taking a study skills class through special education for one hour a day and they are enrolled in an English class and the team realizes they need more help and plans to increase special education services by sending a special education teacher into the English class daily, the team should discuss this; and the parents should get notice of this, but the team should not be required to receive parental consent for this change in placement. Current Kansas law requires the parents' consent before we can increase this service to a student; this requirement is above and beyond what is required by the federal law.

Private/Parochial Services

Federal law clearly delineates that students who attend a private/parochial school in a school district have the right to services from the school district where the private school is located. This assists districts in determining who has the

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To: Kathy Decker

From: Deborah Haltom, Shawnee Mission, USD #512

responsibility for services. For example, the Shawnee Mission school district has approximately 40 private/parochial schools within its district's boundaries. We believe we are responsible for providing the services to those students who require special education, even if they reside in another county or school district. The federal law now clarifies this for us and state law should align with this federal requirement.

However, the federal law does not require public schools to spend more than the private school proportionate share of its federal IDEA funds. Kansas does require full services for private/parochial students. This means the same level of service must be provided to a private school student as those attending public schools. So, in Shawnee Mission, the district not only has to provide the service to the student attending a private school, but the district must transport the student or the teacher, which incurs additional costs; and it has administrative costs involved in managing services for another school or agency; so it spends much more on the private school students for the same level of service. The federal law does not require the same level of service for private school students as those enrolled in public schools. Kansas does not mirror the federal law; it requires more, so it costs more than the law intends.

Thank you for your consideration of HB 2331 with the minor suggested changes proposed by KASB.

Sincerely,



Deborah Haltom, Director
Special Education Services

House Education Committee

February 16, 2005

HB 2331

My name is Josie Torrez and I work for the Statewide Independent Living Council of Kansas and am a member of the Special Education Advisory Council (SEAC). I also have an adult son with autism, who received special education services and supports through his school years.

Our concern with HB 2331 is the expedient way the State Department of Education wants to get this passed this legislative session. We feel it would be best for the students that special education serves if the State Department of Education would convene a stakeholder group together that would consist of parents, SEAC members, State Department of Ed staff, teachers and advocacy groups to go over the changes that would affect Kansas students with disabilities. We want to know "What's the hurry?"

An additional concern we have is changing the "Transition Age" to age 16, from 14 years of age. The State of Kansas has been out of compliance with "Transition" per the Fed's. They have just, in the past year, come into compliance. When Joe was going through this transition, the IEP team believed, the earlier the better so that better planning would occur for him during his high school years. The transition plan helped us, as a family, to help him choose his classes for his first year of high school. Our suggestion would be to keep the transition age at 14. This would better serve the students with disabilities receiving special education services.

We ask for this committee's consideration of our request to hold this bill until the State Department of Education has met with all pertinent stakeholders regarding the changes this bill will have on students with disabilities in Kansas.

Josie Torrez
Project Coordinator
SILCK
700 SW Jackson, Suite 212
Topeka, Ks 66603
785-234-6990

House Education Committee

Date: 2-16-05

Attachment # 14

Testimony before the House Education Committee, concerning House Bill #2333, relating to counting out of state students for per-pupil state aid.

Presented by **Robert Loftin, member, Board Of Education, USD #242, Weskan, Kansas.**

When the Arapahoe, Colorado public school ceased operating after the 1983 school year, the parents of six of those students enrolled them into our school in Weskan. There were a variety of reasons for them to choose the Weskan School system. It is 2 miles closer to Weskan than to Cheyenne Wells, Colorado. Some of the parents were graduates of Weskan High. No doubt for some, the educational opportunity was brighter in Kansas. Our lower student to teacher ratio, our higher academic standards as compared to surrounding states, and our small community with high morals and positive peer pressure, made Weskan school the most attractive choice.

For the 1984-85 school year, the out-of-state student count grew to eleven. Lets keep in mind that in those times the general fund money was all levied on the local taxpayers entirely. I was elected to the Board of Education in 1985, and I do not recall ever hearing anyone being critical of the board for allowing those students to attend our school without paying tuition. It just seemed like the right thing to do.

In Western Kansas, it is mostly wide-open spaces. For many in western Wallace County, their closest neighbor lives in Colorado. Many of the Colorado folks have family ties in our school district. Of the 13 students currently enrolled, the parents of 11 of these, either work at the school in Weskan, work for a Kansas business, have farmland in Kansas, or otherwise pay taxes to the State of Kansas. That is not to mention, buying food, gas, incidentals, and paying sales tax as they follow their students to school activities **in Kansas.**

On a per pupil basis, these 13 students generated a little over \$119,000 in budget authority this year. Enough to buy copier paper for one of the big five Kansas school districts I suppose. At our place, this number is almost 10% of our budget. This would not necessarily be the death blow to us if the funds were not available, but it would most certainly be a blow to our effectiveness as a first rate school. A first rate school in a state where excellence is valued.

I could go on and on about the importance of the school in Weskan but I think that that would be to state the obvious. With school activities, everyone is included. From new parents, to grandparents, it is important to them all. I am sure that you all can think of examples of communities that are torn apart and die because the school closes. Just because the state line runs near our town, our community does not stop at that point. These same families attend our churches. These same students make up our 4-H clubs and youth groups.

I understand that you as legislators are charged with making decisions on the fiscal policies of our state. Are you prepared to make this decision that would disrupt communities on both sides of our border, all the way around the state? With students going both ways to the schools in nearby communities, shouldn't our aim be to help students get the best possible education? I think in our case, keeping the school open for the whole community is the best policy. It just seems like the right thing to do.

Thank you for your time, and thoughtful consideration.

House Education Committee

Date: 2-16-05

Attachment # 15