

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:35 p.m. on March 21, 2005, in Room 123-S of the Capitol.

Committee members absent: Barbara Allen- excused
Carolyn McGinn- excused

Committee staff present: Carolyn Rampey, Kansas Legislative Research
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Tammy Dickson, parent from Coffeyville
Ginger Lewman, Kansas Association for the Gifted,
Talented, and Creative
Kylie White, gifted student from Emporia
Rod Bieker, General Counsel, State Department of Education

Informational hearing on:

HB 2331—Special education compliance with federal law (IDEA)

Senator Schodorf called upon, Theresa Kiernan, Revisor of Statutes Office, for an overview of the provisions of **HB 2331**. At the outset, Ms. Kiernan noted that the bill was introduced at the request of the State Department of Education. She explained that the bill makes numerous amendments to the Kansas special education law to conform state law with the requirements of federal law when it reauthorized the Individuals with Disabilities Education Act (IDEA). The bill does not make any changes in relation to gifted children who remain within the definition of exceptional children. She explained that the additions and modifications to the definition section were proposed by the Department of Education, and the House Education Committee made technical changes. She went on to explain the definition section and the provisions of other sections of the bill. (Attachment 1)

Tammy Dickson, the parent of a six-year-old son who has Down syndrome, explained that she was neutral on **HB 2331**, but she did have concerns about proposals considered which would have changed the transition age from 14 to 16 and which would have allowed placement of a child without parental consent. She commented that the state could add things to the federal law to strengthen it. She distributed a binder with relevant information and a packet containing her written testimony with informational attachments. Included in the attachments was a copy of her son's IEP and progress report. (Attachment 2) She noted that she included her son's records so that the Committee could see first hand what benchmark/objectives are. She commented, "That is how a child's progress is measured. That is how the schools keep track of how the child is progressing in school and also parents can make sure that this child is learning. I know that federal law cut that completely out of IDEA, and I would like to see that back at the state level. Another concern is that they were looking at three-year IEPs instead of having an annual IEP. When you look at my son's IEP, you will be able to tell the importance of it and why it is so important to keep it at an annual IEP. Another concern that I have is in regard to discipline and being able discipline children with disabilities the same as their non-disabled peers. I just want to make sure that the state doesn't rush into anything, that we really look at this from a child's perspective, because the type of education my son gets determines how his life will be whenever he gets older."

Ginger Lewman, representing the Kansas Association for the Gifted, Talented, and Creative (KGTC), commented that it is extremely vital to continue the support of gifted children in Kansas under the protection of Special Education. She noted that the Science, Technology, Engineer, and Mathematics (STEM) Education Caucus was created in Washington, D.C., with the understanding that our economy is driven by constant innovation, and the basis of innovation lies in a dynamic, motivated, well-educated workforce equipped with STEM skills. She shared facts taken from the Policy Exploration meeting held in 2004 in Washington, D.C., which indicate that the United States is not producing enough American born scientists, technology experts, engineers, or mathematicians to meet increased demands for staff in the National Security Agency (NSA). She noted that people who are filling those jobs non-U.S. citizens who are already qualified in specialty

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:35 p.m. on March 21, 2005, in Room 123-S of the Capitol.

occupations including math, computer science, engineering, and medicine. She went on to discuss why continued support of academic rigor for all students in all schools is essential in stopping and reversing the economic decline of Kansas. She commented that no student in Kansas can be allowed to stagnate and falter, and Kansas' gifted children need specially designed instruction to meet their unique learning needs. She introduced her former student, Kylie White, who came to relate her experiences as a gifted student. (Attachment 3)

Kylie White, a freshman at Emporia High School, spoke in support of continued gifted education in Kansas. She explained that she has been in Special Education since the second grade, and this has afforded her many opportunities to excel, explore, and work far beyond the teaching in the normal classroom. She discussed her special educational opportunities, her scholastic achievements, and her future plans. In closing she said, "Because gifted education is protected under Special Education, I have been able to tap my potential for learning. I am not a child in danger of being left behind as far as proficiency." (Attachment 4)

Rodney Bieker, General Counsel for the State Department of Education, testified in support of **HB 2331**. (Attachment 5) He explained that, except for the changes made by the House Education Committee, the amendments to the bill were limited to changes that are found in the new federal special education law. He emphasized that the bill 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. After listing the major areas affected by the federal amendments, he called the Committee's attention to a balloon of the bill with his suggested amendments. He noted that the amendment concerning transition services shown on page two of the balloon was very important to the Department and to families with children with disabilities. He called attention to the foot note which indicates that the amendment eliminates concern as to whether the requirements under the former language meet or exceed the requirements under the new language. He explained that this amendment combines the new requirement for transition services and adds to it what the state has been already been doing for eight years. He commented that the amendment would ensure that transition services would not be reduced and yet they would meet federal requirements.

There being no further time, the hearing on **HB 2331** was continued to March 22.

The meeting was adjourned at 2:30 p.m.

The next meeting is scheduled for March 22, 2005.

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: March 21, 2005

NAME	REPRESENTING
Rod Bieker	KSDE
RUSSELL MILLS	GACKES
Don Wilson	USA
DUAL SCHNEIDER	WASHBURN
Ruth Samther	SPS
Cindy Kelly	KASB
TERRY FORSYTH	KNEA
Jami White	KGTC parent
Kylie White	KGTC student
Ginger Lewman	KGTC
Marcia Law	KGTC
Karen Snell	Families Together, Inc.
Jammy Dickson	Parent
Jane Rhys	KS Council on Developmental Disabilities
Josie Terry	SILCK
Kathleen Skisom	DISABILITY RIGHTS CENTER
Wade Bowie	SJA
Kevin Siek	TILRC
Sharon Joseph	KS ADA3T

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: March 21, 2005

NAME	REPRESENTING
Kirk Lowry	DRC

HOUSE BILL No. 2331

By Committee on Education

10 AN ACT concerning school districts; relating to the provision of special
11 education and related services; amending K.S.A. 72-962, 72-963, 72-
12 963a, 72-964, 72-965, 72-966, 72-971, 72-973, 72-974, 72-984, 72-985,
13 72-986, 72-987, 72-988, 72-990, 72-993, 72-994 and 72-996 and re-
14 pealing the existing sections; also repealing K.S.A. 72-991 and 72-992.

15 Be it enacted by the Legislature of the State of Kansas:

16 Section 1. K.S.A. 72-962 is hereby amended to read as follows: 72-
17 962. As used in this act:

- 18 (a) "School district" means any public school district.
- 19 (b) "Board" means the board of education of any school district.
- 20 (c) "State board" means the state board of education.
- 21 (d) "Department" means the state department of education.
- 22 (e) "State institution" means any institution under the jurisdiction of
23 a state agency.
- 24 (f) "State agency" means the ~~secretary~~ department of social and re-
25 habilitation services, the ~~secretary~~ department of corrections; and the
26 ~~commissioner~~ of juvenile justice authority.
- 27 (g) "Exceptional children" means persons who are children with dis-
28 abilities or gifted children and are school age, to be determined in ac-
29 cordance with rules and regulations adopted by the state board, which
30 age may differ from the ages of children required to attend school under
31 the provisions of K.S.A. 72-1111, and amendments thereto.
- 32 (h) "Gifted children" means exceptional children who are deter-
33 mined to be within the gifted category of exceptionality as such category
34 is defined by the state board.
- 35 (i) "Special education" means specially designed instruction provided
36 at no cost to parents to meet the unique needs of an exceptional child,
37 including:
38 (1) instruction conducted in the classroom, in the home, in hospitals
39 and institutions, and in other settings; and
40 (2) instruction in physical education.
- 41 (j) "Special teacher" means a person, employed by or under contract
42 with a school district or a state institution to provide special education or
43

HB 2331 was introduced by the House Comm on Education at the request of the KSDE. The bill makes numerous amendments to the Kansas special education law to conform state law to the requirements of federal law in the reauthorization of IDEA. The bill does not change state law in relation to gifted children who remain within the definition of "exceptional children".

Section 1. 72-962. (m) "Parent" a foster parent who has been appointed as the education advocate is added.

(s)(1) "Related services" add to the definition are: Interpreting services, and school nurse services designed to enable the child to receive a fape as described in the child's IEP

(s)(2) "Related services" shall NOT include any medical device that is surgically implanted or the replacement of any such device.

(z) "Children with disabilities" added to the definition are children, ages 3-9, who are experiencing developmental delays and because of those delays, need special ed and related services.

New definitions added:
(cc) "Developmental delay" means such a deviation from average physical, cognitive, adaptive behavior communication, social or emotional development to indicate special ed and related services are required; determined by appropriate diagnostic instruments or procedures.

(dd) "Homeless children" mean homeless children and youths as defined in federal law under the McKinney-Vento homeless assistance act.

(ee) "Limited English proficient" an individual who meets the qualifications of federal law under section 9101 of the elementary and secondary education act of 1965, as amended.

Senate Education Committee
3-21-05
Attachment 1

1 related services, who is: (1) Qualified to provide special education or
2 related services to exceptional children as determined pursuant to stan-
3 dards established by the state board, or (2) qualified to assist in the pro-
4 vision of special education or related services to exceptional children as
5 determined pursuant to standards established by the state board.

6 (k) "State plan" means the state plan for special education and related
7 services authorized by this act.

8 (l) "Agency" means boards and the state agencies.

9 (m) "Parent" means: (1) A natural parent; (2) an adoptive parent;
10 (3) a person acting as parent; (4) a legal guardian; ~~or~~; (5) an education
11 advocate; or (6) a foster parent, if the foster parent has been appointed
12 the education advocate of an exceptional child.

13 (n) "Person acting as parent" means a person such as a grandparent
14 ~~or~~ stepparent or other relative with whom a child lives or a person
15 other than a parent who is legally responsible for the welfare of a child.

16 (o) "Education advocate" means a person appointed by the state
17 board in accordance with the provisions of K.S.A. 38-1513a, and amend-
18 ments thereto. A person appointed as an education advocate for a child
19 shall not be: (1) An employee of the agency which is required by law to
20 provide special education or related services for the child; (2) an employee
21 of the state board, the department, or any agency which is directly in-
22 volved in providing educational services for the child, or (3) any person
23 having a professional or personal interest which would conflict with the
24 interests of the child.

25 (p) "Free appropriate public education" means special education and
26 related services that: (1) Are provided at public expense, under public
27 supervision and direction, and without charge; (2) meet the standards of
28 the state board; (3) include an appropriate preschool, elementary, or sec-
29 ondary school education; and (4) are provided in conformity with an in-
30 dividualized education program.

31 (q) "Federal law" means the individuals with disabilities education
32 act, as amended.

33 (r) "Individualized education program" or "IEP" means a written
34 statement for each exceptional child that is developed, reviewed, and
35 revised in accordance with the provisions of K.S.A. 72-957, and amend-
36 ments thereto.

37 (s) (1) "Related services" means transportation, and such develop-
38 mental, corrective, and other supportive services, including speech-lan-
39 guage pathology and audiology services, *interpreting services*, psycholog-
40 ical services, physical and occupational therapy, recreation, including
41 therapeutic recreation, social work services, *school nurse services* ~~desig-~~
42 ~~nated~~ **designed** to enable a child with a disability to receive a free ap-
43 propriate public education as described in the child's IEP, counseling

1 services, including rehabilitation counseling, orientation and mobility
2 services, and medical services, except that such medical services shall be
3 for diagnostic and evaluation purposes only, as may be required to assist
4 an exceptional child to benefit from special education, and includes the
5 early identification and assessment of disabling conditions in children.

6 (2) "Related services" shall not mean any medical device that is sur-
7 gically implanted or the replacement of any such device.

8 (4) "Supplementary aids and services" means aids, services, and other
9 supports that are provided in regular education classes or other education-
10 related settings to enable children with disabilities to be educated with
11 nondisabled children to the maximum extent appropriate.

12 (n) "Individualized education program team" or "IEP team" means
13 a group of individuals composed of: (1) The parents of a child; (2) at least
14 one regular education teacher of the child, if the child is, or may be,
15 participating in the regular education environment; (3) at least one special
16 education teacher or, where appropriate, at least one special education
17 provider of the child; (4) a representative of the agency directly involved
18 in providing educational services for the child who: (A) Is qualified to
19 provide, or supervise the provision of, specially designed instruction to
20 meet the unique needs of exceptional children; (B) is knowledgeable
21 about the general curriculum; and (C) is knowledgeable about the avail-
22 ability of resources of the agency; (5) an individual who can interpret the
23 instructional implications of evaluation results; (6) at the discretion of the
24 parent or the agency, other individuals who have knowledge or special
25 expertise regarding the child, including related services personnel as ap-
26 propriate; and (7) whenever appropriate, the child.

27 (v) "Evaluation" means a multisourced and multidisciplinary exami-
28 nation, conducted in accordance with the provisions of K.S.A. 72-986,
29 and amendments thereto, to determine whether a child is an exceptional
30 child.

31 (w) "Independent educational evaluation" means an examination
32 which is obtained by the parent of an exceptional child and performed
33 by an individual or group of individuals who meet state and local standards
34 to conduct such an examination.

35 (x) "Elementary school" means any nonprofit institutional day or res-
36 idential school that offers instruction in any or all of the grades kinder-
37 garten through nine.

38 (y) "Secondary school" means any nonprofit institutional day or res-
39 idential school that offers instruction in any or all of the grades nine
40 through 12.

41 (z) "Children with disabilities" means: (1) Children with mental re-
42 tardation, hearing impairments including deafness, speech or language
43 impairments, visual impairments including blindness, emotional distur-

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

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

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

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

21 (dd) "Homeless children" means "homeless children and youths" as
 22 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
 23 11434a.

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

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

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

37 Sec. 3. K.S.A. 72-963a is hereby amended to read as follows: 72-
 38 963a. The state board shall:

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

Sec. 2 Suspends conflicting rules and regulations until they are amended or revoked by the SBOE.

1 requirements of the federal law and this act.

2 ~~(b) Establish, in consultation with the state advisory council for special education, standards and requirements for the qualification of persons as hearing officers and mediators in accordance with federal law. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education and training necessary to assure the competent performance of functions and procedures which hearing officers and mediators are authorized to perform.~~

3 ~~(c) Establish standards and criteria for conducting and approving training programs for hearing officers and mediators.~~

4 ~~(d) (e) Compile and maintain a list of qualified hearing officers and mediators.~~

5 Sec. 4. K.S.A. 72-964 is hereby amended to read as follows: 72-964.

6 (a) There is established a state advisory council for special education which shall consist of not more than 21 members. Members of the advisory council shall be appointed by the state board of education, and shall serve for a term of three years. No member may serve more than two consecutive terms. Whenever a vacancy occurs in the membership of the advisory council for any reason other than the expiration of the term of a member, the state board shall appoint a successor for the remainder of the unexpired term.

7 (b) (1) The advisory council established under this section shall be representative of the state population and be comprised of persons involved in, or concerned with, the education of exceptional children, including: (A) Parents of exceptional children, *ages birth through 26 years*. At least one of ~~whom~~ *such parents* shall be the parent of a gifted child; (B) individuals with disabilities; (C) teachers; (D) representatives of institutions of higher education that prepare special education and related services personnel; (E) state and local education officials, *including officials who carry out activities under the federal McKinney-Vento homeless education act, 42 U.S.C. 11431 et seq.*; (F) administrators of programs for exceptional children; (G) representatives of other state agencies involved in the financing or delivery of related services to exceptional children; (H) representatives of private schools and public charter schools; (I) at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; ~~and~~ (J) representatives from the state juvenile and adult corrections agencies; *and* (K) *a representative from the state agency responsible for foster care of children.*

8 (2) A majority of the members of the advisory council shall be individuals with disabilities or parents of children with disabilities *ages birth through 26.*

9 (c) The state advisory council for special education shall:

hearing officers and mediators must meet qualification of federal law
hearing officers must have content knowledge about special education and be impartial

Advisory Council for special education (not more than 21 members).

Council is required to be representative of the state

Parent members would have to be the parent of an exceptional child who is between the ages of birth and 26 years.

State and local education official members would include officials who carry out activities under the McKinney-Vento homeless education act.

1 (1) Advise the state board of unmet needs within the state in the
2 education of exceptional children.

3 (2) comment publicly on any rules and regulations proposed by the
4 state board regarding the education of exceptional children.

5 (3) advise the state board in developing evaluations and reporting on
6 data to the federal government;

7 (4) advise the state board in developing corrective action plans to
8 address findings identified in federal monitoring reports; and

9 (5) advise the state board in developing and implementing policies
10 relating to the coordination of services for exceptional children.

11 (d) Members of the state advisory council for special education at-
12 tending meetings of such council, or attending a subcommittee meeting
13 thereof authorized by the state board, shall be paid subsistence allow-
14 ances, mileage and other expenses as provided in K.S.A. 75-3223, and
15 amendments thereto.

16 (e) The state board shall call the members of the advisory council to
17 meet at least once each year, at which meeting the council shall organize
18 by electing a chairperson and a vice-chairperson. The person in the de-
19 partment specified to be the principal administrator of special education
20 and related services shall be the secretary of the advisory council. The
21 council shall meet upon the call of the chairperson or upon the call of
22 the state board as often as may be necessary at times and places desig-
23 nated by the chairperson or by the state board in order to fulfill the duties
24 prescribed under the provisions of this act.

25 Sec. 5. K.S.A. 72-965 is hereby amended to read as follows: 72-965.

26 (a) The state board shall be responsible for the distribution and allocation
27 of state and federal funds for special education. Such moneys shall be
28 expended only in accordance with and for the purposes specified in fed-
29 eral or state law. Payments under this act may be made in installments
30 and in advance or by way of reimbursement, with necessary adjustments
31 for overpayments or underpayments. Federal funds for special education
32 shall be deposited in the state treasury.

33 (b) The state board is hereby authorized to accept from an individual
34 or individuals, the United States government or any of its agencies or any
35 other public or private body, grants or contributions of money, funds or
36 property which the state board may authorize to be used in accordance
37 with appropriation acts, for or in aid of special education or related serv-
38 ices or any of the purposes authorized by the federal law or this act.

39 (c) (1) *Each board may use up to 15% of the amount it receives each*
40 *year under the federal law to develop and implement coordinated, early*
41 *intervening services for students in kindergarten through grade 12, with*
42 *a particular emphasis on students in kindergarten through grade 3, who*
43 *have not been identified as needing special education or related services*

1-7

1 into between the board of the school district of which the child is a resi-
 2 dent and the board of the school district in which the child is housed.
 3 Any such contract shall be subject to the provisions of subsections (a)(3)
 4 and (c) of K.S.A. 72-967, and amendments thereto. If a contract is not
 5 entered into between the school districts, the child shall be deemed to
 6 be a pupil of the school district which is providing special education and
 7 related services to the child. Nothing in this subsection shall be construed
 8 to limit or supersede or in any manner affect or diminish the requirements
 9 of compliance by each school district with the provisions of subsection
 10 (a), but shall operate as a comity of school districts in assuring the pro-
 11 vision of special education services for each exceptional child in the state.

12 (c) (1) Special education and related services required by this section
 13 shall meet standards and criteria set by the state board.

14 (2) The state board shall be responsible for assuring that the require-
 15 ments of the federal law and this act are met and that all educational
 16 programs for exceptional children, including programs administered by
 17 any other state agency: (A) Are under the general supervision of individ-
 18 uals who are responsible for educational programs for exceptional chil-
 19 dren; and (B) meet the educational standards prescribed by the state
 20 board.

21 (3) Provision (2) of this subsection shall not limit the responsibility of
 22 any other state agency to provide, or pay for some or all of the costs of,
 23 a free appropriate public education for an exceptional child.

24 (d) Consistent with state and federal law, state agencies shall enter
 25 into such interagency agreements as are necessary or advisable in making
 26 a free appropriate public education available to all exceptional children
 27 residing in the state. The state board shall establish procedures for re-
 28 solving interagency disputes, including procedures under which local ed-
 29 ucational agencies may initiate proceedings to secure reimbursement or
 30 otherwise implement or seek enforcement of the provisions of the inter-
 31 agency agreement.

32 (e) *Each school board and state agency is prohibited from requiring*
 33 *any child to obtain a prescription for a substance covered by the federal*
 34 *controlled substances act, 21 U.S.C. 801 et seq., as a condition for the*
 35 *child to attend school or be evaluated or receive special education services*
 36 *under this act as a condition for the child to attend school or be*
 37 **evaluated or receive special education services under this act.**

38 Sec. 7. K.S.A. 72-971 is hereby amended to read as follows: 72-971.

39 (a) The state board shall prepare and file such reports as are required by
 40 the federal law or this act.

41 (b) School districts and state agencies having data on exceptional chil-
 42 ~~den~~ *needed by the state board to complete required reports* shall furnish
 43 such data, as requested, to the state board.

A district cannot condition the attendance, evaluation or the provision of services on a requirement that the child take medication.

SBOE duty to prepare and file reports; requires USDs to furnish and any data needed by the SBOE to complete reports it must file under state and federal law.

1 New Sec. 8. (a) (1) Subject to the requirements in this section, the
2 parent of an exceptional child or the agency responsible for providing
3 services to the child may initiate a due process hearing regarding any
4 problem arising in regard to any matter governed by this act, if:

5 (A) The problem about which complaint is made occurred not more
6 than two years before the filing of the complaint and the party filing the
7 complaint knew or should have known about the alleged action that forms
8 the basis of the complaint;

9 (B) the party filing the complaint or the attorney for that party pro-
10 vides to the other party and to the department, a written due process
11 complaint notice that shall remain confidential and include the following
12 information:

13 (i) the name of the child, the address of the residence of the child
14 (or in the case of a homeless child or youth, available contact information
15 for the child), and the name of the school the child is attending;

16 (ii) a description of the nature of the problem and the facts that form
17 the basis of the complaint; and

18 (iii) a proposed resolution of the problem.

19 (2) A parent or an agency shall not be entitled to a due process hear-
20 ing until the parent or agency, or their attorney, files a notice that meets
21 the requirements of this subsection.

22 (b) (1) Any due process complaint notice filed by a parent shall be
23 deemed to be timely even if presented more than two years after the
24 occurrence of the facts giving rise to the complaint, if:

25 (A) The agency made specific misrepresentations that it had resolved
26 the problem forming the basis of the complaint; or

27 (B) the agency withheld information from the parent that is required
28 to be given to the parent under this act.

29 (2) The due process complaint notice required by subsection (a) shall
30 be deemed to be sufficient unless the party receiving the notice notifies
31 the hearing officer and the other party, in writing, within 15 days of
32 receiving the complaint, that the receiving party believes the notice does
33 not meet the requirements.

34 (3) Within five days of receipt of the notification provided under sub-
35 section (a), the hearing officer shall make a determination of whether the
36 notification meets the requirements of subsection ~~(a)~~ (b)(2) and shall
37 immediately notify the parties, in writing, of such determination.

38 (c) (1) If the complaint is filed by a parent and the agency has not
39 sent a prior written notice to the parent regarding the problem described
40 in the parent's due process complaint notice, the agency, within 10 days
41 of receiving the complaint, shall send to the parent a response that
42 includes:

43 (A) An explanation of why the agency proposed or refused to take

Changes the due process complaint process: Complaints must give notice of all issues; parents and schools are required to participate in a resolution meeting prior to an hearing, unless they agree to waive the meeting and use mediation instead.

Initiation of a due process hearing—by parent or the agency responsible for providing services to the child.

In general, there is a 2 year statute of limitations for filing a complaint

Requires a written due process complaint notice which includes:

- name and address of the child/or contact information
- description of the problem and the facts that form the basis of the complaint
- a proposed resolution of the problem

Must file a notice which meet the requirements of this section before there is an entitlement to a due process hearing

(b) Exception to the two-year limitation

A notice is deemed sufficient unless the party receiving a notice challenges the sufficiency of the notice of complaint within 15 days of receipt ; must notify the hearing officer and the other party

hearing officer has 5 days to determine if the notice complies with subsection (b)(2)

Parental complaint of a problem for which no prior written notice was given to the parent explanation of why action was proposed or refused to be taken, or other appropriate reply

1 the action raised in the complaint, or an appropriate reply if the problem
2 does not address proposed or refused action by the agency;

3 (B) a description of other options that the IEP team considered and
4 the reasons why those options were rejected;

5 (C) a description of each evaluation procedure, assessment, record
6 or report the agency used as the basis for any action it has proposed or
7 refused; and

8 (D) a description of the factors that are relevant to the agency's pro-
9 posal or refusal, or in reply to the complaint.

10 (2) The fact an agency gives notice to a parent pursuant to paragraph
11 (1) shall not preclude such agency from asserting that the parent's due
12 process complaint notice is insufficient.

13 (d) The non-complaining party, within 10 days of receiving the com-
14 plaint, shall send to the complaining party a response that specifically
15 addresses the issues raised in the complaint.

16 (e) (1) A party may amend its due process complaint notice only if:

17 (A) The other party consents in writing to such amendment and is
18 given the opportunity to resolve the complaint through a meeting held
19 pursuant to K.S.A. 72-973, and amendments thereto; or

20 (B) the hearing officer grants permission, except that such permission
21 shall be granted not less than five days before a due process hearing
22 occurs.

23 (2) The applicable timeline for a due process hearing shall recommen-
24 ce at the time the party files an amended notice, including the timeline
25 for resolution of the complaint.

26 (f) (1) Nothing in this section shall be construed to preclude a parent
27 or an agency from filing a separate due process complaint on an issue
28 different from issues presented in a due process complaint already filed.

29 (2) Upon motion of either party and if deemed appropriate by the
30 due process hearing officer presiding in the initial hearing, the issues
31 raised in the separate complaints may be considered and resolved in the
32 same due process hearing.

33 Sec. 9. K.S.A. 72-973 is hereby amended to read as follows: 72-973.

34 (a) (1) *Except as hereinafter provided, within 15 days of receipt of a due*
35 *process complaint notice from a parent, the agency shall convene a meet-*
36 *ing with the parent and the member or members of the IEP team who*
37 *have specific knowledge of the facts identified in the complaint, and a*
38 *representative of the agency who has the authority to make binding de-*
39 *isions on behalf of the agency. This meeting shall not include the agency's*
40 *attorney unless the parent is accompanied by an attorney.*

41 (2) *At this meeting, the parent of the child shall discuss and explain*
42 *the complaint, including the facts that form the basis of the complaint and*
43 *the agency shall be provided the opportunity to resolve the complaint.*

Within 15 days of receipt of due process complain notice, a resolution meeting shall be convened. Parties meet to discuss and explain the complaint and the agency shall be provided the opportunity to resolve the complaint.

Prohibits a school district from having its attorney present at the IEP meeting unless the parents also are represented by an attorney at the meeting.

1 (3) If the meeting of the parties results in a resolution of the complaint, the parties shall execute a written agreement that both the parent and the representative of the agency shall sign and that, at a minimum, includes the following statements:

2 (A) The agreed upon resolution of each issue presented in the complaint;

3 (B) that each party understands that the agreement is legally binding upon them, unless the party provides written notice to the other party, within three days of signing the agreement, that the party giving notice is voiding the agreement; and

4 (C) if not voided, each party understands that the agreement may be enforced in state or federal court.

5 (4) If a resolution of the complaint is not reached at the meeting held under this subsection and the agency has not resolved the complaint to the satisfaction of the parent within 30 days of the agency's receipt of the complaint, the due process hearing procedures shall be implemented and all of the applicable timelines for a due process hearing shall commence. All discussions that occurred during the meeting shall be confidential and may not be used as evidence in any subsequent hearing or civil proceeding.

6 (5) A meeting shall not be required under this subsection if the parent and the agency agree, in writing, to waive such a meeting, or they agree to use mediation to attempt to resolve the complaint.

7 (b) Any due process hearing provided for under this act, shall be held at a time and place reasonably convenient to the parent of the involved child, shall be a closed hearing unless the parent requests an open hearing, and shall be conducted in accordance with rules and regulations relating thereto adopted by the agency. Such rules and regulations shall afford procedural due process rights, including the following:

8 (1) The right of the parties to have counsel or an advisor of their own choice present and to receive the advice of such counsel or other advisor whom they select to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of children with disabilities;

9 (2) the right of the child and the parent of the child parents parties to be present at the hearing;

10 (3) the right of the child, the parent of the child and their counsel or advisor to hear or read a full report of the testimony of witnesses responsible for recommending the proposed action and of any other material witnesses;

11 (4) the right of the parties to confront and cross-examine witnesses who appear in person at the hearing, either voluntarily or as a result of the issuance of a subpoena;

If there is a resolution of the complaint at the meeting , the parties execute a binding written agreement.

If a resolution is not reached at the meeting, and if the agency has not resolved the complaint to the parent's satisfaction within 30 days of receipt of the notice, the due process hearing procedure shall be implemented.

Discussions in the resolution are confidential and may not be used as evidence in subsequent hearings or proceedings.

Parties may waive resolution meeting or may agree to mediation to attempt to resolve the complaint.

DUE PROCESS HEARING

Procedural due process rights

1 ~~(4)~~ the right of the parties to present witnesses in person or their
 2 testimony by affidavit, including expert medical, psychological or educa-
 3 tional testimony;

4 ~~(6)~~ the right of the child and the parent, on behalf of the child, to
 5 testify and give reasons in opposition to the proposed action;

6 ~~(7)~~ (5) the right of the parties to prohibit the presentation of any
 7 evidence at the hearing which has not been disclosed to the opposite party
 8 at least five days prior to the hearing, including any evaluations completed
 9 by that date and any recommendations based on such evaluations;

10 ~~(8)~~ the right of the parties to have an orderly hearing;

11 ~~(9)~~ the right of the child to a fair and impartial decision based on
 12 substantial evidence; and

13 (6) the right to prohibit the other party from raising, at the due pro-
 14 cess hearing, any issue that was not raised in the due process complaint
 15 notice or in a prehearing conference held prior to the hearing;

16 ~~(10)~~ (7) the right of the parties to have a written or, at the option of
 17 the parent, an electronic, verbatim record of the hearing; and

18 (8) the right to a written or, at the option of the parent, an electronic
 19 decision, including findings of facts and conclusions.

20 ~~(c)~~ (c) Except as provided by subsection (a), each due process hear-
 21 ing, other than an expedited hearing under K.S.A. ~~72-992 or~~ 72-993, and
 22 amendments thereto, shall be held not later than ~~30~~ 35 days from the
 23 date on which the request therefor is received. The ~~child and the parent~~
 24 ~~of the child~~ parties shall be notified in writing of the time and place of
 25 the hearing at least five days prior thereto. At any reasonable time prior
 26 to the hearing, the parent and the counsel or advisor of the involved child
 27 shall be given access to all records, tests, reports or clinical evaluations
 28 relating to the proposed action.

29 ~~(d)~~ (d) (1) Except as otherwise provided in K.S.A. 72-993, and
 30 amendments thereto, during the pendency of any proceedings conducted
 31 under this act, unless the agency and parent otherwise agree, the child
 32 shall remain in the then-current educational placement of such child.

33 (2) If proceedings arise in connection with the initial admission of
 34 the child to school, the child shall be placed in the appropriate regular
 35 education classroom or program in compliance with K.S.A. 72-1111, and
 36 amendments thereto, unless otherwise directed pursuant to ~~K.S.A. 72-~~
 37 ~~994~~ section 1S, and amendments thereto.

38 ~~(e)~~ (e) Subject to the provisions of K.S.A. 72-973a, and amendments
 39 thereto, the agency shall appoint a hearing officer for the purpose of
 40 conducting the hearing. Members of the state board, the secretary of
 41 social and rehabilitation services, the secretary of corrections, the com-
 42 missioner of the juvenile justice authority, and members of any board or
 43 agency involved in the education of the child shall not serve as hearing

Unless a resolution meeting or mediation is agreed to, the due process hearing shall be held not less than 35 days from the date of the request is received.

five-days written notice

access to records, tests, reports and evaluations

child remains in current placement during the proceedings (unless placed in an alternative educational setting under 72-993)

1 officers. No hearing officer shall be any person responsible for recom-
 2 mending the proposed action upon which the hearing is based, any person
 3 having a personal or professional interest which would conflict with ob-
 4 jectivity in the hearing, or any person who is an employee of the state
 5 board or any agency involved in the education of the child. A person shall
 6 not be considered an employee of the agency solely because the person
 7 is paid by the agency to serve as a hearing officer. Each agency shall
 8 maintain a list of hearing officers. Such list shall include a statement of
 9 the qualifications of each hearing officer. Each hearing officer and each
 10 state review officer shall be qualified in accordance with standards and
 11 requirements established by the state board and shall have satisfactorily
 12 completed a training program conducted or approved by the state board.

13 *(f) (1) Any party to a due process hearing who has grounds to believe*
 14 *that the hearing officer cannot afford the party a fair and impartial hear-*
 15 *ing due to bias, prejudice or a conflict of interest may file a written request*
 16 *for the hearing officer to disqualify such officer and have another hearing*
 17 *officer appointed by the state board. Any such written request shall state*
 18 *the grounds for the request and the facts upon which the request is based.*

19 *(2) If a request for disqualification is filed, the hearing officer shall*
 20 *review the request and determine the sufficiency of the grounds stated in*
 21 *the request. The hearing officer then shall prepare a written order con-*
 22 *cerning the request and serve the order on the parties to the hearing. If*
 23 *the grounds are found to be insufficient, the hearing officer shall continue*
 24 *to serve as the hearing officer. If the grounds are found to be sufficient,*
 25 *the hearing officer immediately shall notify the state board and request*
 26 *the state board to appoint another hearing officer.*

27 *(g) (1) Except as provided in paragraph (2), the decision of the hear-*
 28 *ing officer in each due process hearing shall be based on substantive*
 29 *grounds and a determination of whether the child received a free appro-*
 30 *priate public education.*

31 *(2) In due process hearings in which procedural violations are al-*
 32 *leged, the hearing officer may find that the child did not receive a free*
 33 *appropriate public education only if the hearing officer concludes the*
 34 *procedural violations did occur and those violations:*

35 *(A) Impeded the child's right to a free appropriate public education;*

36 *(B) significantly impeded the parents' opportunity to participate in*
 37 *the decision making process regarding the provision of a free appropriate*
 38 *public education to the parents' child; or*

39 *(C) caused a deprivation of educational benefits.*

40 *(3) Nothing in this subsection shall be construed to preclude a hearing*
 41 *officer from ordering a local educational agency to comply with proced-*
 42 *ural requirements under this act.*

43 *(h) Whenever a hearing officer conducts any hearing, such hearing*

If party believes the hearing officer is biased or prejudiced or has a conflict of interest which prevents the officer from being fair and impartial, the party may file a written request for the officer to disqualify himself.

In most cases, the bill requires that the decision of a hearing officer be based on whether the school provides a free appropriate education, not on technical violations of procedural requirements.

When procedural violations are alleged, the hearing officer must find that such violations must have occurred AND as a result of those violations: caused (A) (B) or (C)

1 officer shall render a decision on the matter, including findings of fact
 2 and conclusions, not later than 10 days after the close of the hearing. The
 3 decision shall be written or, at the option of the parent, shall be an elec-
 4 tronic decision. Any action of the hearing officer in accordance with this
 5 subsection shall be final, subject to appeal and review in accordance with
 6 this act.

7 Sec. 10. K.S.A. 72-974 is hereby amended to read as follows: 72-974.

8 (a) Written notice of the result of any hearing provided for under this act
 9 shall be given to the agency providing for the hearing and shall be sent
 10 by certified mail to the ~~affected child or the parent, counselor or advisor or~~
 11 *attorney* of the child within 24 hours after the result is determined. Such
 12 decision, after deletion of any personally identifiable information con-
 13 tained therein, shall be transmitted to the state board which shall make
 14 the decision available to the state advisory council for special education
 15 and to the public upon request.

16 (b) (1) Any party to a due process hearing provided for under this
 17 act may appeal the decision to the state board by filing a written notice
 18 of appeal with the commissioner of education not later than 30 calendar
 19 days after the date of the postmark on the written notice specified in
 20 subsection (a). A review officer appointed by the state board shall conduct
 21 an impartial review of the decision. The review officer shall render a
 22 decision not later than 20 calendar days after the notice of appeal is filed.
 23 The review officer shall: (A) Examine the record of the hearing; (B) de-
 24 termine whether the procedures at the hearing were in accordance with
 25 the requirements of due process; (C) afford the parties an opportunity
 26 for oral or written argument, or both, at the discretion of the review
 27 officer; (D) seek additional evidence if necessary; (E) render an inde-
 28 pendent decision on any such appeal not later than five days after com-
 29 pletion of the review; and (F) send the decision on any such appeal to
 30 the parties and to the state board.

31 (2) For the purpose of reviewing any hearing and decision under
 32 provision (1), the state board may appoint one or more review officers.
 33 Any such appointment may apply to a review of a particular hearing or
 34 to reviewing a set or class of hearings as specified by the state board in
 35 making the appointment.

36 (c) *Subject to the provisions of subsection (e), any action of a review*
 37 *officer pursuant to this section is subject to review in accordance with*
 38 *the act for judicial review and civil enforcement of agency actions or to*
 39 *an action in federal court as allowed by the federal law.*

40 (d) *Consistent with state court actions, any action in federal court*
 41 *shall be filed within 30 days after service of the review officer's decision.*

42 (e) *In any action brought under subsection (c), the court:*

43 (1) *Shall receive the records of the administrative proceedings;*

Appeal of due process decision

1 (2) *if it deems necessary, shall hear additional evidence at the request*
 2 *of a party;*

3 (3) *based on its decision on the preponderance of the evidence, shall*
 4 *grant such relief as the court determines is appropriate; and*

5 (4) *in accordance with the federal law, may award attorneys' fees to*
 6 *the prevailing party in any due process hearing or judicial action brought*
 7 *in accordance with this act.*

8 Sec. 11. K.S.A. 72-984 is hereby amended to read as follows: 72-984.

9 The state board shall:

10 (1) Establish goals for the performance of children with disabilities
 11 in the state that: (A) Will promote the purposes of this act; ~~and~~ (B) are
 12 consistent, to the maximum extent appropriate, with other goals and stan-
 13 dards for children established by the state board; (C) *are the same as the*
 14 *goals included in the state's definition of adequate yearly progress under*
 15 *the federal no child left behind act of 2004, including the state's objectives*
 16 *for progress by children with disabilities; and (D) address graduation*
 17 *rates, dropout rates, and other factors as determined by the state board;*

18 (2) establish performance indicators the state will use to assess pro-
 19 gress toward achieving ~~those goals that, at a minimum, address the per-~~
 20 ~~formance of children with disabilities on assessments, dropout rates, and~~
 21 ~~graduation rates;~~ *the goals designated in paragraph (1), including the*
 22 *measurable annual objectives for progress by children with disabilities;*
 23 *and*

24 (3) ~~every two years, annually~~ report to the secretary of the U.S. de-
 25 partment of education, and to the public, the progress of the state, and
 26 of children with disabilities in the state, toward meeting the goals estab-
 27 lished under this section; ~~and~~

28 ~~(4) based on its assessment of that progress, revise its state improve-~~
 29 ~~ment plan in accordance with the provisions of subpart 1 of part D of the~~
 30 ~~federal law as may be needed to improve performance, if the state re-~~
 31 ~~ceives assistance under that subpart.~~

32 Sec. 12. K.S.A. 72-985 is hereby amended to read as follows: 72-985.

33 (a) (1) The state board and each board shall include, ~~to the extent required~~
 34 ~~by the federal law and this act,~~ exceptional children in general state and
 35 district-wide assessment programs, *including assessments described in the*
 36 *federal no child left behind act of 2004 with appropriate accommodations*
 37 *and alternate assessments where necessary and as indicated in the chil-*
 38 *dren's respective IEPs. As appropriate*

39 (2) *In accordance with the federal law, the state board and each board*
 40 *shall: (A) The provision of appropriate ac-*
 41 *commodations; and (B) for the participation of children with disabilities*
 42 *in alternate assessments for those children who cannot participate in reg-*
 43 *ular state and district-wide assessment programs, and assessments as in-*

1 *licated in their respective IEPs*

2 ~~(2) develop and, beginning not later than July 1, 2000, conduct those~~
3 ~~alternate assessments.~~

4 *(3) The guidelines for alternative assessments shall meet the require-*
5 *ments of the federal law.*

6 *(b) The state board, and each local board with respect to district*
7 *assessments, shall make available to the public, and report to the public*
8 *with the same frequency and in the same detail as it reports on the as-*
9 *essment of nondisabled children, the following:*

10 *(1) The number of children with disabilities participating in regular*
11 *assessments and the number of those children who were provided accom-*
12 *modations in order to participate in those assessments;*

13 *(2) the number of children with disabilities participating in alternate*
14 *assessments that are: (A) Aligned with the state's challenging academic*
15 *and achievement standards; or (B) based upon the achievement of chil-*
16 *dren with disabilities; and*

17 *(3) the performance of children with disabilities on regular assess-*
18 *ments beginning not later than July of 1999, and on alternate assessments*
19 ~~*not later than July 1, 2000,*~~ *if doing so would be statistically sound and*
20 *would not result in the disclosure of performance results personally iden-*
21 *tifiable of information about an individual children student compared*
22 *with the achievement of all children, including children with disabilities,*
23 *on those assessments.*

24 ~~*(c) Data relating to the performance of children with disabilities shall*~~
25 ~~*be disaggregated for assessments conducted after the effective date of*~~
26 ~~*this act.*~~

27 *Sec. 13. K.S.A. 72-986 is hereby amended to read as follows: 72-986.*

28 *(a) (1) An agency shall conduct a full and individual initial evaluation in*
29 *accordance with this section before the initial provision of special edu-*
30 *cation and related services to an exceptional child. ~~Such~~*

31 *(2) An initial evaluation may be initiated either by the parent of a*
32 *child or by an agency.*

33 *(3) An initial evaluation shall consist of procedures to determine*
34 *whether a child is an exceptional child and the educational needs of such*
35 *child.*

36 *(4) The screening of a student by a teacher or specialist to determine*
37 *appropriate instructional strategies for curriculum implementation shall*
38 *not be considered to be an evaluation under this act.*

39 ~~*(5)*~~ *(5) An agency proposing to conduct an initial evaluation of a child*
40 *shall obtain informed consent from the parent of such child before the*
41 *evaluation is conducted. Parental consent for evaluation shall not be con-*
42 *strued as consent for placement for receipt of special education and re-*
43 *lated services.*

1 ~~(6)~~ (6) If the ~~parents~~ parent of a child ~~refuse~~ refuses consent for an
 2 initial evaluation of the child, or fails to respond to a written request to
 3 provide consent, the agency may, but shall not be required to, continue
 4 to pursue an initial evaluation by utilizing the mediation or due process
 5 procedures prescribed in this act.

6 ~~(b)~~ Each agency shall ensure that a reevaluation of each exceptional
 7 child is conducted:

8 ~~(1)~~ If conditions warrant a reevaluation or if the child's parent or
 9 teacher requests a reevaluation, but at least once every 3 years; and

10 ~~(2)~~ in accordance with subsections (c), (d) and (e).

11 ~~(c)~~ (b) An agency shall provide notice to the parents of a child that
 12 describes any evaluation procedures such agency proposes to conduct. In
 13 conducting the evaluation, the agency shall:

14 (1) Use a variety of assessment tools and strategies to gather relevant
 15 functional ~~and~~ developmental ~~and~~ academic information, including in-
 16 formation provided by the parent, that may assist in determining whether
 17 the child is an exceptional child and the content of the child's individu-
 18 alized education program, including information related to enabling the
 19 child to be involved, and progress, in the general education curriculum
 20 or, for preschool children, to participate in appropriate activities;

21 (2) not use any single ~~procedure~~ measure or assessment as the sole
 22 criterion for determining whether a child is an exceptional child or de-
 23 termining an appropriate educational program for the child; ~~and~~

24 (3) use technically sound instruments that may assess the relative con-
 25 tribution of cognitive and behavioral factors, in addition to physical or
 26 developmental factors; ~~and~~

27 (4) in determining whether a child has a specific learning disability,
 28 not be required to take into consideration whether the child has a severe
 29 discrepancy between achievement and intellectual ability, and may use a
 30 process that determines if the child responds to scientific, research-based
 31 intervention as part of the child's evaluation.

32 ~~(d)~~ (c) An agency shall ensure that:

33 (1) ~~Tests~~ Assessments and other evaluation materials used to assess a
 34 child under this section: (A) Are selected and administered so as not to
 35 be discriminatory on a racial or cultural basis; ~~and~~ (B) are provided and
 36 administered in the child's native language or other mode of communi-
 37 cation, unless it is clearly not feasible to do so; ~~and~~

38 ~~(2)~~ any standardized tests that are given to the child: (A) Have been
 39 validated language and form most likely to yield accurate information on
 40 what the child knows and is able to do academically, developmentally and
 41 functionally, unless it is not feasible to so provide or administer; (C) are
 42 valid and reliable for the specific purpose for which they are used; ~~(B)~~
 43 (D) are administered by trained and knowledgeable personnel; and ~~(E)~~

Assessments and other evaluation material are required to be given in the language most likely to yield accurate information.

1 (E) are administered in accordance with ~~any~~ instructions provided by the
2 producer of such tests;

3 ~~(2)~~ (2) the child is assessed in all areas of suspected ~~disability~~, and
4 ~~exceptionality~~;

5 ~~(3)~~ (3) assessment tools and strategies that provide relevant infor-
6 mation that directly assists persons in determining the educational needs
7 of the child are provided; and

8 (F) *the assessments of any child who transfers from another agency*
9 *during the school year are coordinated with the child's prior school, as*
10 *necessary and as expeditiously as possible, to ensure prompt completion*
11 *of an evaluation begun by the prior school.*

12 (e) Upon completion of the administration of ~~tests~~ assessments and
13 other evaluation materials:

14 (1) The determination of whether the child is an exceptional child
15 shall be made by a team of qualified professionals and the parent of the
16 child in accordance with this section; and

17 (2) a copy of the evaluation report and the documentation of deter-
18 mination of eligibility shall be given to the parent.

19 (f) In making a determination of eligibility under this section, a child
20 shall not be determined to be an exceptional child if the determinant
21 factor for such determination is lack of instruction in reading ~~or~~, including
22 *instruction using the essential components of reading instruction*, math
23 or limited English proficiency.

24 (g) (1) *If it is determined that a child is an exceptional child, the*
25 *agency shall seek consent from the parent of the child to provide special*
26 *education and related services to the child. No such services shall be pro-*
27 *vided until consent is given by the parent.*

28 (2) *If the parent of a child refuses to consent to the provision of serv-*
29 *ices, or fails to respond to a request for consent to services, the agency:*
30 *(A) shall not initiate any procedure or proceeding under this act to gain*
31 *authority to provide services to the child;*

32 *(B) shall not be considered to be in violation of the requirement to*
33 *provide a free appropriate public education to the child; and*

34 *(C) shall not be required to convene an IEP meeting or develop an*
35 *IEP for the child.*

36 (h) (1) *Each agency shall ensure that a reevaluation of each excep-*
37 *tional child is conducted:*

38 (A) *If the agency determines that the educational or related services*
39 *needs of the child, including academic achievement or functional perform-*
40 *ance, warrant a reevaluation; or*

41 (B) *if the child's parent or teacher requests a reevaluation.*

42 (2) *An agency shall conduct a reevaluation of a child:*

43 (A) *Not more frequently than once a year, unless the parent and the*

Transfer of assessment when a child transfers during the school year

Reevaluation of a child, when

No more than once a year, unless by agreement

1 *agency agree otherwise; and*

2 *(B) at least once every three years, unless the parent and the agency*
3 *agree that a reevaluation is unnecessary.*

4 *(i)* As part of an initial evaluation, if appropriate, and as part of any
5 reevaluation under this section, the IEP team and other qualified pro-
6 fessionals, as appropriate, shall:

7 (1) Review existing evaluation data on the child, including evaluations
8 and information provided by the parents of the child, current classroom-
9 based assessments and observations, and teacher and related services pro-
10 viders' observations; and

11 (2) on the basis of that review, and input from the child's parents,
12 identify what additional data, if any, are needed to determine: (A)
13 ~~Whether the child has a particular exceptionality~~ *is an exceptional child*
14 *and the educational needs of the child*, or in the case of a reevaluation of
15 a child, whether the child continues to ~~have such exceptionality~~ *be an*
16 *exceptional child and the current educational needs of the child*; (B) the
17 present levels of ~~performance and educational~~ *academic and related*
18 needs of the child; (C) whether the child needs special education and
19 related services; or in the case of a reevaluation of a child, whether the
20 child continues to need special education and related services; and (D)
21 whether any additions or modifications to the special education and re-
22 lated services are needed to enable the child to meet the measurable
23 annual goals set out in the IEP of the child and to participate, as appro-
24 priate, in the general ~~educational~~ **education** curriculum.

25 ~~44~~ *(j)* Each agency shall obtain informed parental consent prior to
26 conducting any reevaluation of an exceptional child, except that such in-
27 formed consent need not be obtained if the agency can demonstrate that
28 it took reasonable measures to obtain such consent and the child's parent
29 failed to respond.

30 ~~45~~ *(k)* If the IEP team and other qualified professionals, as appro-
31 priate, determine that no additional data are needed to determine
32 whether the child continues to be an exceptional child *and the child's*
33 *educational needs*, the agency:

34 (1) Shall notify the child's parents of: (A) That determination and the
35 reasons for it; and (B) the rights of such parents to request an assessment
36 to determine whether the child continues to be an exceptional child *and*
37 *the child's educational needs*; and

38 (2) shall not be required to conduct such an assessment unless re-
39 quested by the child's parents.

40 ~~46~~ *(l)* (1) *Except as provided in paragraph (2), an agency shall eval-*
41 ~~uate~~ *reevaluate* a child in accordance with this section before determining
42 that the child is no longer an exceptional child.

43 (2) *A reevaluation of a child shall not be required before termination*

at least once every three years, unless agreed that it is unnecessary

parental consent prior to reevaluation, when not required

1-19

1 *ending services to the child may agree to develop a written document*
2 *amending or modifying the child's current IEP, without convening an IEP*
3 *meeting.*

4 *(B) If the parent and agency representative develop a written docu-*
5 *ment amending or modifying a child's current IEP, the document shall be*
6 *dated and signed by the parent and the agency representative. The parent*
7 *and the agency shall be provided a copy of the document.*

8 ~~++ (c)~~ The IEP for each exceptional child shall include:

9 (1) A statement of the child's present levels of ~~educational~~ *academic*
10 *achievement and functional performance, including: (A) How the child's*
11 *disability or giftedness affects the child's involvement and progress in the*
12 *general education curriculum; ~~or~~ (B) for preschool children, as appropri-*
13 *ate, how the disability affects the child's participation in appropriate ac-*
14 *tivities; and (C) for those children with disabilities who take alternate*
15 *assessments aligned to alternate achievement standards, a description of*
16 *benchmarks or short-term objectives;*

17 (2) a statement of measurable annual goals, including ~~benchmarks or~~
18 ~~short-term objectives, related to: (A) Meeting academic and functional~~
19 ~~goals designed to: (A) Meet~~ the child's needs that result from the child's
20 disability or giftedness, to enable the child to be involved in and *make*
21 progress in the general education or advanced curriculum; and (B) ~~meet-~~
22 ~~ing meet~~ each of the child's other educational needs that result from the
23 child's disability or giftedness;

24 (3) *a description of how the child's progress toward meeting the an-*
25 *annual goals will be measured and when periodic reports on the progress*
26 *the child is making toward meeting the annual goals will be provided,*
27 *such as through the use of quarterly or other periodic reports issued*
28 *concurrently with general education report cards.*

29 ~~++ (4)~~ a statement of the special education and related services and
30 supplementary aids, *based on peer-reviewed research to the extent prac-*
31 *ticable, and services to be provided to the child, or on behalf of the child,*
32 and a statement of the program modifications or supports for school per-
33 sonnel that will be provided for the child: (A) To advance appropriately
34 toward attaining the annual goals; (B) to be involved ~~and~~ *in and make*
35 progress in the general education curriculum in accordance with provision
36 (1) and to participate in extracurricular and other nonacademic activities;
37 and (C) to be educated and participate with other exceptional and no-
38 nexceptional children in the activities described in this paragraph;

39 ~~++ (5)~~ an explanation of the extent, if any, to which the child will not
40 participate with nonexceptional children in the regular class and in the
41 activities described in provision ~~++ (4)~~;

42 ~~++ (6)~~ (A) a statement of any individual ~~modifications in the admin-~~
43 ~~istration of state or district-wide assessments of student achievement that~~

Mandatory provisions in an IEP

1 ~~are needed in order for the child to participate in such assessment ap-~~
 2 ~~propriate accommodations that are necessary to measure the academic~~
 3 ~~achievement and functional performance of the child in on state and dis-~~
 4 ~~trict-wide assessments; and (B) if the IEP team determines that the child~~
 5 ~~will not participate in shall take an alternate assessment on a particular~~
 6 ~~state or district-wide assessment of student achievement or part of such~~
 7 ~~an assessment, a statement of why that assessment is not appropriate for~~
 8 ~~the child and how the child will be assessed the child cannot participate~~
 9 ~~in the regular assessment and why the particular alternate assessment~~
 10 ~~selected is appropriate for the child.~~

11 ~~(6)(7) the projected date for the beginning of the services and mod-~~
 12 ~~ifications described in provision (5)(4), and the anticipated frequency,~~
 13 ~~location, and duration of those services and modifications;~~

14 ~~(7)(A) Beginning at age 14, and updated annually, a statement of~~
 15 ~~the transition service needs of the child under the applicable components~~
 16 ~~of the child's IEP that focuses on the child's course of study, such as~~
 17 ~~participation in advanced placement courses or a vocational education~~
 18 ~~program; (B) beginning at age 16 or younger, if determined appropriate~~
 19 ~~by the IEP team, a statement of needed transition services for the child,~~
 20 ~~including, when appropriate, a statement of the interagency responsi-~~
 21 ~~bilities or any needed linkages; and (C)~~

22 ~~(8) beginning not later than with the first IEP to be in effect when~~
 23 ~~the child is 16, and updated annually thereafter; (A) Appropriate meas-~~
 24 ~~urable postsecondary goals based upon age-appropriate transition assess-~~
 25 ~~ments related to training, education, employment, and, where appropri-~~
 26 ~~ate, independent living skills; and (B) the transition services, including~~
 27 ~~appropriate courses of study, needed to assist the child in reaching the~~
 28 ~~stated postsecondary goals; and (S) (A) beginning at age 14, and up-~~

29 ~~dated annually, a statement of the transition service needs of the~~
 30 ~~child under the applicable components of the child's IEP that fo-~~
 31 ~~cuses on the child's course of study, such as participation in ad-~~
 32 ~~vanced-placement courses or a vocational education program; and~~
 33 ~~(B) beginning at age 16, or younger, if determined appropriate by~~
 34 ~~the IEP team, a statement of needed transition services for the~~
 35 ~~child, including, when appropriate, a statement of the interagency~~
 36 ~~responsibilities or any needed linkages; and~~

37 ~~(9) beginning at least one year before the child reaches the age of~~
 38 ~~majority under state law, a statement that the child has been informed of~~
 39 ~~the child's rights, if any, that will transfer to the child on reaching the age~~
 40 ~~of majority as provided in K.S.A. 72-989, and amendments thereto.~~

41 ~~(8) a statement of: (A) How the child's progress toward the annual~~
 42 ~~goals will be measured, and (B) how the child's parents will be regularly~~
 43 ~~informed, by such means as periodic report cards, at least as often as~~

Transition service needs of a child

1 ~~parents of nonexceptional children are informed of their children's pro-~~
2 ~~gress, of their child's progress toward the annual goals, and the extent to~~
3 ~~which that progress is sufficient to enable the child to achieve the goals~~
4 ~~by the end of the year.~~

5 *Nothing in this section shall be construed to require: (1) That additional*
6 *information be included in a child's IEP beyond that which is specifically*
7 *required by this section; and (2) that an IEP team include information*
8 *under one component of a child's IEP that is already contained under*
9 *another component of the IEP.*

10 ~~(c)~~ (d) In developing each child's IEP, the IEP team shall consider:

11 (1) The strengths of the child and the concerns of the parents for
12 enhancing the education of their child;

13 (2) the results of the initial evaluation or most recent evaluation of
14 the child;

15 (3) *the academic, developmental and functional needs of the child;*

16 ~~(3)~~ (4) in the case of a child whose behavior impedes the child's learn-
17 ing or that of others, ~~strategies, including the use of~~ positive behavioral
18 interventions and supports *and other strategies* to address that behavior;

19 ~~(4)~~ (5) in the case of a child with limited English proficiency, the
20 language needs of the child as such needs relate to the child's IEP;

21 ~~(5)~~ (6) in the case of a child who is blind or visually impaired, provide
22 for instruction in Braille and the use of Braille unless the IEP team de-
23 termines, after an evaluation of the child's reading and writing skills,
24 needs, and appropriate reading and writing media, including an evalua-
25 tion of the child's future needs for instruction in Braille or the use of
26 Braille, that instruction in Braille or the use of Braille is not appropriate
27 for the child;

28 ~~(6)~~ (7) the communication needs of the child, and in the case of a
29 child who is deaf or hard of hearing, consider the child's language and
30 communication needs, opportunities for direct communications with
31 peers and professional personnel in the child's language and communi-
32 cation mode, academic level, and full range of needs, including oppor-
33 tunities for direct instruction in the child's language and communication
34 mode; and

35 ~~(7)~~ (8) whether the child requires assistive technology devices and
36 services.

37 ~~(d)~~ (e) The regular education teacher of the child, as a member of
38 the IEP team, to the extent appropriate, shall participate in:

39 (1) The development of the IEP of the child, including the deter-
40 mination of appropriate positive behavioral interventions *supports*, and
41 *other strategies* and the determination of supplementary aids and services,
42 program modifications, and support for school personnel consistent with
43 this section; and

1-22

1 (2) *except as provided in this section*, the review and revision of the
2 child's IEP ~~under subsection (c).~~

3 ~~(f)~~ Each agency shall ensure that the IEP team:

4 (1) Reviews the child's IEP periodically, but not less than annually to
5 determine whether the annual goals for the child are being achieved; and

6 (2) revises the IEP, as appropriate, to address: (A) Any lack of expected
7 progress toward the annual goals and in the general *education*
8 curriculum, where appropriate; (B) the results of any reevaluation conducted
9 under this section; (C) information about the child provided ~~to~~
10 ~~or by~~ the parents, as described in subsection (g) of K.S.A. 72-986, and
11 ~~amendments thereto by the parents~~; (D) the child's anticipated needs;
12 or (E) other matters.

13 (g) (1) *If an exceptional child with a current IEP transfers from one*
14 *Kansas school district to another during the academic year, the new school*
15 *district, in consultation with the child's parent, shall provide the child a*
16 *FAPE, including services comparable to those described in the transferred*
17 *IEP, until the new school district either adopts the transferred IEP, or*
18 *develops and implements a new IEP for the child.*

Transfer of child during school year, impact on IEP and services

19 (2) *If during the academic year, an exceptional child who has a current*
20 *IEP transfers from a school district in another state to a Kansas school*
21 *district, the Kansas school district, in consultation with the child's parent,*
22 *shall provide the child a FAPE, including services comparable to those*
23 *described in the transferred IEP, until the Kansas school district either*
24 *adopts the transferred IEP, or conducts an evaluation of the child, if*
25 *deemed necessary, and develops and implements a new IEP for the child.*

26 Sec. 15. K.S.A. 72-988 is hereby amended to read as follows: 72-988.

27 (a) The rights of parents of exceptional children shall include, but not be
28 limited to, the rights specified in this section.

29 (b) The parents of exceptional children shall have the right to:

Parents rights

30 (1) Examine all records relating to such child and to participate in
31 meetings with respect to the identification, evaluation, and educational
32 placement of the child, and the provision of a free appropriate public
33 education to such child, and to obtain an independent educational evaluation
34 of the child;

35 (2) written prior notice in accordance with K.S.A. 72-990, and
36 amendments thereto, whenever an agency: (A) Proposes to initiate or
37 change; or (B) refuses to initiate or change, the identification, evaluation,
38 or educational placement of the child or the provision of a free appropriate
39 public education to the child;

40 (3) receive the notice required by provision (2) in their native language,
41 unless it clearly is not feasible to do so;

42 (4) present complaints with respect to any matter relating to the identification,
43 evaluation, or educational placement of the child, or the pro-

1 vision of a free appropriate public education to the child, subject to the
 2 requirements that the parent, or the attorney representing the parent or
 3 child, provides notice to the agency that includes: (A) The name of the
 4 child, the address of the residence of the child, and the name of the school
 5 the child is attending; (B) a description of the nature of the problem of
 6 the child relating to such proposed initiation or change, including facts
 7 relating to such problem; and (C) a proposed resolution of the problem
 8 to the extent known and available to the parents at the time *in section 8,*
 9 *and amendments thereto:*

10 (5) request mediation in accordance with this act;

11 (6) consent, or refuse to consent, to the evaluation, reevaluation or
 12 the initial placement of their child and to any substantial change in place-
 13 ment of, or a material change in services for, their child, unless a change
 14 in placement of their child is ordered pursuant to the provisions of ~~K.S.A.~~
 15 ~~72-001~~ *section 17*, and amendments thereto, or the agency can demon-
 16 strate that it has taken reasonable measures to obtain parental consent to
 17 a change in placement or services, and the child's parent has failed to
 18 respond. If the parent fails to respond to the request for parental consent
 19 to a substantial change in placement or a material change in services, the
 20 agency must maintain detailed records of written and verbal contacts with
 21 the parent and the response, if any, received from the parent;

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

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

27 (9) *subject to the requirements of this act*, request a due process hear-
 28 ing in regard to any complaint filed in accordance with provision (4) of
 29 this subsection, or as authorized in ~~K.S.A. 72-002~~ *section 18*, and amend-
 30 ments thereto;

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

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

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

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

42 (d) The state board shall develop, and thereafter amend as necessary,
 43 and distribute for use by agencies, a ~~list~~ *notice* of the rights available to

SBOE required to develop and amend a notice of parents' rights

1-24

1 the parents of exceptional children under the federal law and this act.
2 The ~~first~~ notice shall include a full explanation of the rights and be made
3 available in various languages and be written so as to be easily understand-
4 able by parents.

5 (c) A list of the rights available to the parents of exceptional children
6 shall be given to the parents; ~~at a minimum only one time each school~~
7 ~~year, except a copy also shall be given to the parents:~~ (A) Upon initial
8 referral or parental request for evaluation and upon reevaluation of the
9 child; (B) upon each notification of an individualized education program
10 meeting; (B) upon request of a parent; and (C) upon registration the initial
11 filing of a complaint under subsection (b)(4).

12 Sec. 16. K.S.A. 72-990 is hereby amended to read as follows: 72-990.
13 The notice required by subsection (b)(2) of K.S.A. 72-988, and amend-
14 ments thereto, shall include:

15 (a) A description of the action proposed or refused by the agency;
16 (b) an explanation of why the agency proposes or refuses to take the
17 action;

18 (c) a description of ~~any~~ other options that the agency or IEP team
19 considered and the reasons those options were rejected;

20 (d) a description of each evaluation procedure, ~~test~~ assessment, rec-
21 ord, or report the agency used as a basis for the proposed or refused
22 action;

23 (e) a description of any other factors that are relevant to the agency's
24 proposal or refusal;

25 (f) a statement that the parents have protection under the procedural
26 safeguards of this act and, if the notice is not an initial referral for eval-
27 uation, the means by which a copy of the procedural safeguards can be
28 obtained; and

29 (g) sources for parents to contact to obtain assistance in understand-
30 ing the provisions of the federal law and this act.

31 New Sec. 17. (a) School personnel may order a change in the place-
32 ment of a child with a disability:

33 (1) To an appropriate interim alternative educational setting or other
34 setting, or the short-term suspension of the child:

35 (2) to an appropriate interim alternative educational setting for not
36 more than 45 school days if: (A) The child carries or possesses a weapon
37 to, or at, school, on school premises, or to, or at, a school function under
38 the jurisdiction of the agency; (B) the child knowingly possesses or uses
39 illegal drugs or sells or solicits the sale of a controlled substance while at
40 school, on school premises, or at a school function under the jurisdiction
41 of the agency; or (C) the child has inflicted serious bodily injury upon
42 another person while at school, on school premises, or at a school function
43 under the jurisdiction of the agency; or

Distribution and availability of notice of rights

Disciplinary Actions

Change in placement of a child

1 (3) To an appropriate interim alternative educational placement for
2 not more than 186 school days, if it is determined that the conduct of the
3 child violated the code of student conduct and was not a manifestation
4 of the child's disability, if the relevant disciplinary procedures applicable
5 to children without disabilities are applied in the same manner and the
6 discipline is for the same duration as would be applied to a child without
7 disabilities, except that services must continue to be provided to the child
8 during the period of disciplinary action.

9 (b) Any child with a disability whose placement is changed under
10 subsection (a)(2) or (a)(3) shall:

11 (1) Continue to receive educational services so as to enable the child
12 to continue to participate in the general education curriculum, although
13 in another setting and to progress toward meeting the goals set out in the
14 child's IEP; and

15 (2) receive, as appropriate, a functional behavioral assessment, be-
16 havioral intervention services, and modifications that are designed to ad-
17 dress the inappropriate behavior so that it does not recur.

18 (c) The alternative educational setting described in subsections (a)(2)
19 and (a)(3) shall be determined by the IEP team.

20 (d) If a disciplinary action is contemplated as described in subsection
21 (a)(2) or (a)(3):

22 (1) Not later than the date on which the decision to take that action
23 is made, the agency shall notify the parents of that decision and of all
24 procedural safeguards afforded under ~~K.S.A. 72-922~~ **section 18**, and
25 amendments thereto; and

26 (2) within 10 school days of the date on which the decision to take
27 disciplinary action is made, a review shall be conducted to determine the
28 relationship between the child's disability and the conduct that is subject
29 to disciplinary action.

30 (e) (1) The review described in subsection (d)(2) shall be conducted
31 by the agency, the parent, and relevant members of the child's IEP team
32 as determined by the parent and the agency. In carrying out the review,
33 that group shall review all relevant information in the student's file, in-
34 cluding the child's IEP, any teacher observations, and any relevant infor-
35 mation provided by the parent.

36 (2) Based upon its review of all the relevant information, the group
37 shall determine if the conduct in question:

38 (A) Was caused by, or had a direct and substantial relationship to, the
39 child's disability; or

40 (B) was the direct result of the agency's failure to implement the
41 child's IEP.

42 (3) If it is determined that the conduct of the student is described in
43 either paragraph (2)(A) or (2)(B) of this subsection, then the conduct shall

1-26

1 be determined to be a manifestation of the child's disability.

2 (f) If it is determined that the conduct of a child was a manifestation
3 of the child's disability, the IEP team shall:

4 (1) Conduct a functional behavioral assessment, and implement a behav-
5 iorual intervention plan for such child, provided that the agency has
6 not conducted such an assessment prior to the behavior that resulted in
7 a change in placement;

8 (2) if the child already had a behavioral intervention plan, review and
9 modify it, as necessary, to address the behavior; and

10 (3) except as provided in paragraph (a)(2), return the child to the
11 placement from which the child was removed, unless the parent and the
12 agency agree to a change of placement as part of the modification of the
13 behavioral intervention plan.

14 (g) For the purposes of this section, the following definitions apply:

15 (1) "Controlled substance" means a drug or other substance identi-
16 fied under schedules I, II, III, IV, or V in 21 U.S.C. §12(c);

17 (2) "illegal drug" means a controlled substance but does not include
18 such a substance that is legally possessed or used under the supervision
19 of a licensed healthcare professional or that is legally possessed or used
20 under any other authority under any federal or state law;

21 (3) "weapon" means a weapon, device, instrument, material, or sub-
22 stance, animate or inanimate, that is used for, or is readily capable of,
23 causing death or serious bodily injury, except that such term does not
24 include a pocket knife with a blade of less than 2½ inches in length; and

25 (4) "serious bodily injury" means an injury as described in subsection
26 (h)(3) of section 1365 of title 18 of the United States Code.

27 New Sec. 18. (a) The parent of a child with a disability who disagrees
28 with any decision regarding placement, or the manifestation determina-
29 tion under section 17, and amendments thereto, or an agency that be-
30 lieves that maintaining the current placement of a child is substantially
31 likely to result in injury to the child or to others, may request a hearing.

32 (b) A hearing officer appointed under this act shall hear, and make
33 the determination regarding, an appeal requested under subsection (a).

34 (c) In making the determination under subsection (b), the hearing
35 officer may order a change in placement of the child. In such situations,
36 the hearing officer may:

37 (1) Uphold the manifestation determination;

38 (2) uphold the interim alternative educational placement of the child;

39 (3) return the child to the placement from which the child was re-
40 moved; or

41 (4) order a change in placement of the child to an appropriate interim
42 alternative educational setting for not more than 45 school days if the
43 hearing officer determines that maintaining the current placement of

Hearing may be requested when the parent disagrees with a change in place ment of
a child or the manifestation determination under section 18.

1-27

1 such child is substantially likely to result in injury to the child or to others.

2 Sec. 19. K.S.A. 72-993 is hereby amended to read as follows: 72-993.

3 (a) If a parent or agency requests a hearing under ~~K.S.A. 72-992~~ section
4 18, and amendments thereto, the child shall remain in the interim alter-
5 native educational setting pending the decision of the hearing officer ~~in~~
6 ~~regard to the manifestation determination or the interim placement de-~~
7 ~~cision~~, or until the expiration of the ~~45-day time~~ *forty-five-school-day*
8 period described in subsection (a)(2) of ~~K.S.A. 72-994~~ section 17, and
9 amendments thereto, whichever occurs first, unless the parent and the
10 agency agree otherwise.

11 (b) ~~Except as provided in subsection (c), if a child is placed in an~~
12 ~~interim alternative educational setting pursuant to K.S.A. 72-991, and~~
13 ~~amendments thereto, and school personnel propose to change the child's~~
14 ~~placement after expiration of the interim alternative placement, during~~
15 ~~the pendency of any proceeding to challenge the proposed change in~~
16 ~~placement, the agency shall return the child to the child's placement prior~~
17 ~~to the interim alternative educational setting.~~

18 (c) (1) ~~If the agency maintains that it is dangerous for the child to be~~
19 ~~returned to the child's placement prior to removal to the interim alter-~~
20 ~~native education setting during the pendency of due process proceedings,~~
21 ~~the agency may request an expedited hearing in regard to the proposed~~
22 ~~change in placement.~~

23 (2) ~~In determining whether the child may be placed in the alternative~~
24 ~~education setting or in another appropriate placement ordered by the~~
25 ~~hearing officer, the hearing officer shall apply the standards set out in~~
26 ~~subsection (d) of K.S.A. 72-991, and amendments thereto.~~

27 (b) *The agency shall arrange for an expedited hearing, which shall*
28 *occur within 20 school days of the date the hearing is requested and shall*
29 *result in a determination within 10 school days after the hearing. To*
30 *expedite the hearing, the agency, within three school days of receiving the*
31 *request for a hearing, shall request the state board to appoint a hearing*
32 *officer to conduct the hearing.*

33 Sec. 20. K.S.A. 72-994 is hereby amended to read as follows: 72-994.

34 (a) A child who has not been determined to be eligible for special edu-
35 cation and related services under this act and who has engaged in behavior
36 that violated any rule or code of conduct of the school district, ~~including~~
37 ~~any behavior described in K.S.A. 72-991 and amendments thereto,~~ may
38 assert any of the protections provided for in this act if the school district
39 had knowledge, as determined in accordance with this section, that the
40 child was a child with a disability before the behavior that precipitated
41 the disciplinary action occurred.

42 (b) A school district shall be deemed to have knowledge that a child
43 is a child with a disability if *before the behavior that precipitated the*

If behavior occurs prior to a determination of eligibility of for special education and related services, child may assert protections provided under this act

1-28

1 *disciplinary action occurred:*

2 (1) The parent of the child has expressed concern, in writing, ~~unless~~
3 ~~the parent is illiterate or has a disability that prevents compliance with~~
4 ~~the requirements contained in this subsection, to supervisory or admin-~~
5 ~~istrative personnel of the appropriate educational agency or to a teacher~~
6 ~~of the child, that the child is in need of special education and related~~
7 ~~services;~~

8 (2) ~~the behavior or performance of the child demonstrates the need~~
9 ~~for such services;~~

10 ~~(3) the parent of the child previously has requested an evaluation of~~
11 ~~the child; or~~

12 ~~(4) (3) the teacher of the child, or other personnel of the school dis-~~
13 ~~trict, previously has expressed concern about the behavior or performance~~
14 ~~of the child specific concerns about a pattern of behavior demonstrated~~
15 ~~by the child directly to the director of special education of such school~~
16 ~~district or to other supervisory personnel of the district.~~

17 (c) *A school district shall not be deemed to have knowledge that a*
18 *child is a child with a disability if the parent of the child has not allowed*
19 *an evaluation of the child or has refused services under this law, or*
20 *the child has been evaluated but it was determined that the child was not*
21 *a child with a disability.*

22 ~~(d) (1)~~ (1) Subject to provision (2) of this subsection, if a school dis-
23 trict does not have knowledge that a child is a child with a disability prior
24 to taking disciplinary action against the child, the child may be subjected
25 to the same disciplinary action as is applied to children without disabilities
26 who engage in comparable behaviors.

27 (2) If a request is made for an evaluation of a child during the time
28 period in which the child is subjected to disciplinary action described by
29 this act, an evaluation shall be conducted in an expedited manner. If the
30 child is determined to be a child with a disability, taking into consideration
31 information from the evaluation conducted by the school district and in-
32 formation provided by the parents, the school district shall provide special
33 education and related services in accordance with the provisions of this
34 act, except that, pending the results of the evaluation, the child shall
35 remain in the educational placement determined by school authorities,
36 which may be long-term suspension or expulsion from school.

37 Sec. 21. K.S.A. 72-996 is hereby amended to read as follows: 72-996.

38 (a) The state board shall establish and implement procedures to allow
39 agencies and parents to resolve disputes *involving any matter, including*
40 *matters arising prior to the filing of a complaint,* through a mediation
41 process which, at a minimum, shall be available whenever a due process
42 hearing is requested under this act.

43 (b) The procedures adopted shall ensure that the mediation process

SBOE shall establish and implement mediation procedures

1-29

1 is:

- 2 (1) Voluntary on the part of the parties;
- 3 (2) not used to deny or delay a parent's right to a due process hearing,
- 4 or to deny any other rights afforded under this act; and
- 5 (3) conducted by a qualified and impartial mediator who is trained in
- 6 effective mediation techniques.

7 (c) The state board shall maintain a list of individuals who are qual-
 8 ified mediators and knowledgeable in laws and regulations relating to the
 9 provision of special education and related services and shall establish pro-
 10 cedures for the appointment of a mediator to help resolve disputes be-
 11 tween the parties.

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

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

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

- 23 (1) *The resolution of each issue presented in the complaint;*
- 24 (2) *all discussions that occurred during the mediation process are*
- 25 *confidential and may not be used as evidence in any subsequent due pro-*
- 26 *cess hearing or civil proceeding; and*
- 27 (3) *each party understands that the agreement is legally binding upon*
- 28 *them; and*
- 29 (4) *the agreement may be enforced in state or federal court.*

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

35 **New Sec. 22.** All records of an exceptional child who transfers,
 36 or who is transferred, from one school district to another shall be
 37 transferred at the same time that such child transfers, or is trans-
 38 ferred, or as soon thereafter as possible. If the transfer is a result
 39 of the change in placement by the secretary of the department of
 40 social and rehabilitation services, it shall be the duty of the sec-
 41 retary to transfer, or make provision for the transfer, of such re-
 42 cords to the district or school to which the child is transferred. If
 43 the transfer is a result of the change in placement by the commis-

Duty to transfer records when a child moves to another district.

A decorative border surrounds the page, featuring a mix of colorful letters (A, B, C, D, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, S, T, U, V, W, X, Y, Z) and handprints in various colors (black, purple, green, blue, red, yellow). The border is framed by a thick, multi-colored line.

Staff/Research

Special Education - HB 2331

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620-251-7604 (work)
tam_dickson@yahoo.com

*Senate Education Committee
3-21-05
Attachment 2*

Good afternoon. My name is Tammy Dickson and I live in Coffeyville with 2 of my 3 children, Toby who is 14 and Lane who is 6. My oldest daughter Rachel recently moved to Topeka and will be attending college in the fall. I did bring Toby and Lane with me today because I wanted to make this more real. Not only does this law affect my son Lane, who has Down syndrome, but it also affects Toby and Rachel indirectly. Because depending on the education life. When I'm gone, I don't want either one of my daughters to worry who Lane will live with. My plan is for him to get a good education, even go to college if that is his dream and have the career of his choice.

As you know, on December 3rd, 2004, President Bush signed the Reauthorization of the Individuals with Disabilities Education Act. (IDEA) While some good things were added, some things were taken away. For example, benchmarks and short-term objectives. This is how both the school and parent measure a child's progress. The option of a 3-year Individualized Education Program or IEP. Think how much a child changes in one years time. Being able to discipline children with disabilities the same as their non-disabled peers.

Now I would like to add that IDEA '04 does not take affect until July 5th of this year. And I know that the state can add things to the federal law to strengthen it. That is what I'm asking today. Currently Kansas is one of the better states for an education if you have a child with a disability. I would like for us to keep it that way. Let Kansas be the leader in this regards and show that every child in Kansas counts. (Currently there are 65,000 children in Kansas with disabilities.)

I would ask that since the rules and regulations have not even been written yet for IDEA '04 that we wait to see them before we determine what we has a state need to do. What is the hurry? I know already that KSDE has tried to change the transition age from 14 to 16 and also parental rights in regards to placement of a child. Why would we as a state rush this when it took the federal government almost 2 years for the reauthorization? We need to make sure that the children are the focus of this and that parental rights are not diminished.

In closing the question is not "What would you do if this was your child" but "what would you be willing to do?"

You know you have a child with Special Needs When

You compare emergency rooms instead of grocery stores

You compare your child's oxygen saturations

You teach your child HOW to pull things out of the cupboard, off the bookcases and that feeding the dog from the table is fun

The clothes your infant wore last fall still fit her this fall

Everything is an educational opportunity instead of just having fun

You cheer instead of scold when your child blows bubbles in their juice while sitting at the dinner table (that's speech therapy), smear ketchup all over their high chair (that's OT), or throw their toys. (That's PT)

You fired at least 3 pediatricians and can teach your family doctor a thing or two

You can name at least 3 genes on chromosome 21 (You really know your toast if you can spell the full names correctly)

You have been told you are "in denial" by at least 3 medical or therapy professionals. This makes you laugh!

You have that incredible sinking feeling that you've forgotten SOMETHING on those few days that you don't have some sort of appointment somewhere

You get irritated when friends with healthy kids complain about ONE sleepless night when their child is ill!

Your vocabulary consists of all the letters OT, PT, IEP, ASD, VSD, IFSP, etc.

You keep your appointments at the specialists even though a tropical storm is raging because you just want to get this one over with and you waited 8 months to get it and besides, no one else will be there!

When potty training is complete, you take out a full page public notice in the Washington Post

When the doctors/specialists/hospitals etc. all know you by your name without referring to your chart

You keep a daily growth chart

You calculate monthly statistics for the number of times your child vomits and did this for more than one year

You phone all your friends when your child sits up for the first time at age 2

With a big smile on your face you tell a stranger that your four year old just started walking last week

You pureed turkey on Thanksgiving

Your child's medical file is four inches thick and growing

You have a new belief that angels live on earth

You don't take a new day for granted

ALPHABET SOUP OF ACRONYMS

ADA	Americans with Disabilities Act
ADD	Attention Deficit Disorder
ADHD	Attention Deficit Hyperactivity Disorder
APE	Adaptive Physical Education
BD	Behavior Disorder
CDDO	Community Developmental Disability Organization
CFR	Code of Federal Regulations
CP	Cerebral Palsy
CWC	Class Within a Class
D/B	Deaf/Blindness
DD	Developmentally Delayed
ECSE	Early Childhood Special Education
FAPE	Free Appropriate Public Education
FAS/FAE	Fetal Alcohol Syndrome/Fetal Alcohol Effects
GI	Gifted Intellectually
HCBS	Home and Community Based Services
ICC	Interagency Coordinating Council
IDEA	Individuals with Disabilities Education Act
IEP	Individualized Education Program
IFSP	Individualized Family Support Plan
ILC	Independent Living Center
IQ	Intelligence Quotient
JJA	Juvenile Justice Authority
KAPS	Kansas Advocacy and Protective Services
KAR	Kansas Administration Regulations
KSDE	Kansas State Department of Education
LD	Learning Disability
LEA	Local Education Agency

LRE Least Restrictive Environment
MR Mental Retardation
NICHCY National Information Center for Children and Youth with Disabilities
OCR Office of Civil Rights
ODD Oppositional Defiant Disorder
OHI Other Health Impairment
OSEP Office of Special Education Programs
OT Occupational Therapist/Occupational Therapy
PBS Positive Behavior Supports
PI Physical Impairment
PL Public Law
PT Physical Therapist/Physical Therapy
PTI Parent Training and Information Center
QPA Quality Performance Accreditation
RAD Reactive Detachment Disorder
SEA State Education Agency
SED Severe Emotional Disability
SHS Special Health Services
SILCK State Independent Living Centers of KS
SIT Student Improvement Team
S/L Speech/Language
SMD Severe Multiple Disabilities
SPED Special Education
SRS Social and Rehabilitation Services
SSI Supplemental Security Income
SSS Student Support Services
VI Visual Impairment
VR Vocational Rehabilitation
504 Section 504 of the Rehabilitation Act of 1973

ADA
 ADD
 ADHD
 AFD
 BD
 CDDO
 CDR
 CP
 CWS
 DVB
 DD
 EOSE
 FAFB
 FARLAF
 GI
 HOS
 ICS
 IDEA
 IEP
 IFSB
 ILC
 IQ
 JJA
 KAS
 KAR
 KSDE
 LD
 LEA

KIDSS

Teacher Information Page
COMMUNITY ELEMENTARY SCHOOL
Tri-County Interlocal 607
220 East Chestnut - P. O. Drawer 668
Independence, KS 67301
(620) 331-6303

Printed:09/03/2004

Printed by:
 Hager, Elizabeth

STUDENT DESCRIPTIVE DATA

Student Legal Name: Dickson, Michael L **Preferred Name:** Dickson, Lane
ID/SSN: 515156829 **Birthdate:** 08/20/1998 **Age at Annual Meeting:** 6
Gender: Male **Ethnicity:** W - White (not of Hispanic origin)
Language of the Student: E - English **Language of the Parent:** E - English

	Parent 1	Parent 2	Other
First Name	Tammy	Jeff	
Last Name	Dickson	Dickson	
Title	Ms.	Mr.	
Rel to Child	Mother	Father	
Street	1010 West 4th	713 1/2 Lincoln	
City	Coffeyville	Coffeyville	
State	KS	KS	
Zip	67337	67337	
Home Phone	(620) 251-1205	(620) 515-0582	
Work Ph #1			
Work Ph#2			
E-mail Address			
Co of Res	MG Montgomery		

	Bldg	Building Name	LEA
Neighborhood School	6756	COMMUNITY ELEMENTARY SCHOOL	445
Responsible Building	6756	COMMUNITY ELEMENTARY SCHOOL	445
Assign Child Count	LEA	445	

Grade: KG Fund Source: 1 - IDEA Medical Diagnosis: Down KG Full Day: Y

Gen Ed Intervent: 08/23/2001 Exit: 00/00/00 Next Annual Meeting: 09/03/2005
 Consent for Eval: 03/02/2001 Initiation: 09/03/2004 3 Year Reeval: 05/20/2006
 Comp Eval Comp: 05/20/2003 Vision Screen: 00/00/00 Next Vision: 00/00/00
 Place Consent: 08/21/2002 Hearing Screen: 08/26/2003 Next Hearing: 08/26/2006
 Annual Meeting: 09/03/2004 Ed Status: C - Continuing Student

Anticipated Services to be Provided

Primary Exceptionality: DD - Developmentally Delayed Secondary Exceptionality: SL - Speech/Language Impairments

Ln#	Service	Setting	Provider	Attend Bldg	Mins	Days	Weeks	Start Date	End Date
1	SE	C	Hager, Elizabeth	COMMUNITY ELEMENTARY SCHOOL	430	5	2	08/22/2005	09/03/2005
2	SS	G	Hogan, Toni	COMMUNITY ELEMENTARY SCHOOL	20	3	34	09/03/2004	05/25/2005
3	SS	G	Hogan, Toni	COMMUNITY ELEMENTARY SCHOOL	20	3	2	08/22/2005	09/03/2005
4	PT	G	Robb, Shawna	COMMUNITY ELEMENTARY SCHOOL	20	2	33	09/03/2004	05/25/2005
5	PT	G	Robb, Shawna	COMMUNITY ELEMENTARY SCHOOL	20	2	2	08/22/2005	09/03/2005
6	OT	G	Mitchell, Ron	COMMUNITY ELEMENTARY SCHOOL	20	2	36	09/03/2004	05/25/2005
7	OT	G		COMMUNITY ELEMENTARY SCHOOL	20	2	36	08/22/2005	09/03/2005

Special Transportation Provided: N
 Has Behavior Intervention Plan: N
 Extended School Term Previous Summer: N
 SRSJJA Placement: N

2-7

Medicaid
Eligibility Signed?
Agency Field 2
Agency Field 3
Agency Field 4
Agency Field 5

School Nurse
School Psych
Social Worker

END



Tri-County Interlocal 607
 220 East Chestnut - P. O. Drawer 668
 Independence, KS 67301
 (620) 331-6303

Printed:09/03/2004

INDIVIDUALIZED EDUCATION PROGRAM

Printed by:
Hager, Elizabeth

Legal Name: Dickson, Michael L	ID/SSN: 515156829
Preferred Name: Dickson, Lane	Birthdate: 08/20/1998
First Parent: Tammy Dickson	Age: 6
Phones: (620) 251-1205	Grade: KG
Address: 1010 West 4th	Comp Evaluation: 05/20/2003
Coffeyville KS 67337	IEP Meeting: 09/03/2004
Second Parent: Jeff Dickson	IEP Initiation: 09/03/2004
Phones: (620) 515-0582	Vision Screening:
Other:	Hearing Screening: 08/26/2003
Phones:	
Neighborhood School: COMMUNITY ELEMENTARY SCHOOL	Attendance
Building: COMMUNITY ELEMENTARY SCHOOL	

Participants

Participants in the IEP Team Meeting to develop this IEP.

Name	Position	Date

2-9

Text After Signatures

If any mandatory IEP members were absent from the IEP team meeting, please document the justification for their absence:

The parents were each given a copy of the Parent Rights. _____

The parents were each given a copy of the IEP. _____

Present Levels of Educational Performance

Student Strengths and Parental Concerns

Lane is a very sweet child he seems to enjoy school and listening to music and singing songs with the class. When Lane walks the distance of the hallway independently (from the lunch room, the bus, the gym, etc.) he is very proud of himself, it is difficult for him to walk for long periods of time.

Gross Motor Strengths: Lane's independent mobility has improved greatly during the last year. He is now walking independently (including over uneven surfaces), getting up from the floor independently, and squatting to pick something up off the floor and returning to stand.

Health/Physical/Motor

Hearing was completed by Greenbush. Tympanogram was attempted but could not be obtained due to crying. Speech awareness threshold of 20dB suggest regions of normal hearing are present for at least one year. Vision : Lane had cataract surgery in Oct. 1998 and was fitted with contacts in Nov. 1998 which he wears full time. Lane sees Dr. Rettelle for follow-up, every three months. Lane still demonstrates nystagmus when he is tired and he can't see distance. Lane was born with Down Syndrome and underwent heart surgery in August 2000 to repair the hole. His surgery went well. He is followed by Dr. Doyle for routine health care.

Gross Motor Abilities Sept. 2004: Lane has low muscle tone and strength throughout his body, which is typical for children with Down syndrome. Lane is now able to walk independently using a wide base of support, and he often stills holds his arms up in mid-guard position to help him balance. He does get tired when walking long distances such as to the lunch room, PE, and music. He is able to walk over uneven surfaces such as on the playground. Lane is able to perform all of the following skills independently: stand up from the floor, stand up from sitting in a chair, squat to pick something up off the floor and return to standing, and play in a squatting position. He steps up and down with one hand assistance, but tends to lean on the support quite heavily. Lane can walk with one foot on a balance beam and the other foot on the floor next to the beam. He is starting to jump on a

poine. He can stand on one foot momentarily with one hand held. Lane's independent mobility has improved dramatically during the last year, but he continues to have delays in stair negotiation, balance, and jumping skills. Lane continues to qualify for physical therapy in the school setting. Delays in gross motor skills affect his ability to participate in the general curriculum with peers in PE class, recess, and other free play recreational settings. S. Robb, LPT

FineMotor

Strength And Opportunities That Contribute To Students Success in Academic Settings
Lane is capable of attending to tasks and focusing on things he enjoys and appreciates. His opportunities include attempting to utilize his interests in developing his motor weakness and their impact on his use of academic tools. Appreciative activities enjoyed by Lane includes movement activities, vestibular activities and tactile activities.

Parents Concerns

Parents indicate concerns that Lane's limited success in academic areas could lead to a negative attitude regarding school. Lane's NEED for Occupational Therapy is a result of his limited use of academic tools and the resulting decreased performance in the general curriculum. Review of literature and my experience with children in Lane's peer group would suggest that Lane should be capable of utilizing academic tools without any disruption of his academic performance in the general education curriculum.

Goal

Over the course of 36-weeks Lane when given academic tools (ie paper/pencil, scissors, crayons, technology, scanning a book for pre-reading) will use these tools at an age appropriate or near age appropriate level. His performance will be at the Supervision level. Verbal assistance provided 100% of the time.

Baseline

Lane's current performance with academic tools is at the Maximum Assistance level. On a scale of 1-7 Lane would be rated at a 2 for the Maximum Assistance level with 1 being the low end and 7 being the high end of the scale.

Social/Emotional

Lane has average peer relationships. He appears to enjoy being a part of the general education class. Lane gets along well with adults and children most of the time. Lane's mother would like him to work on manners. Mother states he can sign please, thank you, and sorry.

Academic Performance

Lane is very enjoyable to work with, he likes listening to music and being around other children. Lane maintains attention for a short period of time due to distractions in the classroom. Lane gets tired of working on one task quickly, so it is necessary for him to change activities as much as possible. If Lane is not interested in an activity he may refuse to do what his attendant care or teacher are trying to get him to do by sitting and not cooperating, laying down, or making noises, which are distracting to the rest of the class. When Lane does such things it can be difficult to persuade him to move on to another task. Positive reinforcers such as time working on the computer, listening to music, or a break where he can rest may be used as an incentive for Lane to work hard for his teachers. Lane will do different things depending on his mood and environment. Lane is able to string beads, put objects in a container, and complete a 3-piece puzzle. Parents would like for Lane to improve on his cognitive skills and incorporate sign language into his daily schedule. The special education teacher, attendant care, and paraprofessionals are studying sign language to better communicate with Lane, and to help teach him new words, letters, numbers, colors, etc. in sign language. Lane has a list of 20 vocabulary words (attached) that will

Page 4 of 14

be useful for him in school and the community and he will continue to work on learning the signs to help him communicate his needs at school and home. Lane currently signs the words cookie, milk, eat, sleepy, and drink at school. Lane will continue to work on math skills, such as counting, number recognition, signing numbers, and counting objects with one to one correspondence, etc. Other areas Lane will continue to work on are colors, letter/sound recognition, his personal information (Birthday, address, and phone number), signing and writing his name, kindergarten word wall words and books (as the class gets them), patterning, sorting, and other pre reading and math skills that kindergarteners work on. As a result of Lane's developmental delay it is necessary for him to have support from an attendant care, special education teacher, and/or para in the classroom throughout the day to keep him focused and on task with what the general education class is doing and what is expected of him. Lane will be pulled to the side of the classroom or to the resource room as needed for short periods of time throughout the day to work on the above skills one on one and with few distractions, or to use computer software programs specifically chosen for him.

Communication

Lane enjoys interacting and is communicating more using signs and words. He is also increasing his efforts at imitating words and phrases. He can initiate/imitate 2-4 word phrases but the majority of his communication is done through using one word. In addition, he will communicate through pointing and gesturing. He is able to make his wants and needs known, however an unfamiliar listener may not understand all of his gestures.

He is reported to have at least 50 words. A list of classroom vocabulary will be targeted and at this time Lane can sign/say 5/20. Lane can follow simple directions and when asked to tell an adult for example: please/again/greet-bye, he will usually attempt those signs/words. When he enjoys an activity he will clap and encourage others to clap with him. He enjoys music and will try and sing along or move to music. Mom has a tape of the alphabet song and he will listen and try to imitate the words. When Lane does not want to do an activity or wants to quit, he will say "no". He does sign "no" but often will just say "no" when he shows the sign.

Lane's vocabulary is significantly lower than other children of his age as well as his shorter sentence length. His peers are able to speak in complete sentences and able to make their message understood most of the time. Lane's communication needs interfere with his ability to communicate within the classroom as well as in other environments.

Parent concerns: Lane's parents would like to increase his vocabulary and to see him create simple sentences.

Goals and Benchmarks/Objectives

Goal 1: In 36 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 100% accuracy.

Baseline: At school Lane names red, black, purple, and sometimes yellow.

Benchmark# 1: In 9 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) with 65% accuracy when prompted.

Evaluation Procedures: Daily work, teacher observation

Benchmark# 2: In 18 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 80% accuracy.
Evaluation Procedures: Daily work, teacher observation

Benchmark# 3: In 27 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 90% accuracy.
Evaluation Procedures: Teacher observation, daily work

Benchmark# 4: In 36 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 100% accuracy.
Evaluation Procedures: Daily work, teacher observation

Goal 2: In 36 instructional weeks, Lane will count from 1-20 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.

Baseline: Lane can consistently count to 6 using the signing points with his fingers.

Benchmark# 1: In 9 instructional weeks, Lane will count from 1-10 using his hands (signing) with 85% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.

Evaluation Procedures: Daily Work, Teacher Observation

Benchmark# 2: In 18 instructional weeks, Lane will count from 1-10 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.

Evaluation Procedures: Daily Work, teacher observation

Benchmark# 3: In 27 instructional weeks, Lane will count from 1-20 using his hands (signing) with 85% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.

Evaluation Procedures: daily work, teacher observation

Benchmark# 4: In 36 instructional weeks, Lane will count from 1-20 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.

Evaluation Procedures: Daily Work, Teacher Observation

Goal 3: In 36 instructional weeks, Lane will sign or say 20/20 classroom vocabulary words with 85% accuracy as measured by special education staff and the general education teacher.

Baseline: Lane currently signs 5/20 words from his vocabulary list.

Benchmark# 1: In 9 instructional weeks, Lane will sign or say 8/20 classroom vocabulary words with 70% accuracy as measured by special education staff and the general education teacher.

Evaluation Procedures: Daily Work, teacher observation

Benchmark# 2: In 18 instructional weeks, Lane will sign or say 10/20 classroom vocabulary words with 80% accuracy as measured by special education staff and the general education teacher.

Evaluation Procedures: daily work, teacher observation

~~Benchmark# 3: In 27 instructional weeks, Lane will sign or say 15/20 classroom vocabulary words~~

with 85% accuracy as measured by special education staff and the general education teacher.
Evaluation Procedures: daily work and teacher observation

Benchmark# 4: In 36 instructional weeks, Lane will sign or say 20/20 classroom vocabulary words with 85% accuracy as measured by special education staff and the general education teacher.
Evaluation Procedures: Daily Work, Teacher Observation

Goal 4: In 36 instructional weeks, Lane will recognize 52/52 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, letter games, words in text, and other activities.

Baseline: Lane currently does not name letters or sounds when asked by the special education teacher.

Benchmark# 1: In 9 instructional weeks, Lane will recognize 10/10 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.

Evaluation Procedures: Daily Work, teacher observation

Benchmark# 2: In 18 instructional weeks, Lane will recognize 20/20 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.

Evaluation Procedures: Daily Work, teacher observation

Benchmark# 3: In 27 instructional weeks, Lane will recognize 40/40 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.

Evaluation Procedures: daily work, teacher observation

Benchmark# 4: In 36 instructional weeks, Lane will recognize 52/52 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.

Evaluation Procedures: Daily work, teacher observation

Goal 6: IN 36 WEEKS, WHEN GIVEN A PROMPT, (EX. TELL ME/PICTURE),LANE WILL SAY OR SIGN THE TARGETED CLASSROOM WORDS - 75% OF THE TIME AS OBSERVED BY THE PARAS,SLP/TEACHER THROUGH OUT THE SCHOOL DAY.

Baseline: 5/20 (CLASSROOM VOCABULARY WORDS) - SIGN OR IMITATE SEE ATTACHED CLASSROOM WORD LIST)

Benchmark# 1: IN 9 WEEKS, LANE WILL IMITATE 10/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA, OBSERVATIONS

Benchmark# 2: IN 18 WEEKS, LANE WILL IMITATE 15/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA, OBSERVATIONS

Benchmark# 3: IN 27 WEEKS, LANE WILL IMITATE 20/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA, OBSERVATIONS

Goal 7: IN 36 WEEKS,LANE WILL CORRECTLY NAME (SAY WORD/SIGN) 20 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT. AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.

Baseline: ANIMALS - 2/10 (SAID MOO FOR COW) COLORS - 3/10 FAMILY MEMBERS 3/4

Benchmark# 1: IN 9 WEEKS,LANE WILL CORRECTLY NAME 5 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA. OBSERVATIONS

Benchmark# 2: IN 9 WEEKS,LANE WILL CORRECTLY NAME 10 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA, OBSERVATIONS

Benchmark# 3: IN 27 WEEKS,LANE WILL CORRECTLY NAME 15 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.

Evaluation Procedures: WEEKLY DATA, OBSERVATIONS

Goal 8: Lane will improve his stair negotiation, balance, and jumping skills to meet all of the following objectives by September 2005.

Baseline: Lane steps up and down relying heavily on one hand assistance. He is able to walk a balance beam with one foot on and one foot off. He is starting to jump on a trampoline. He can stand briefly on one foot with one hand assistance.

Benchmark# 1: Lane will step up and down one step (8") without assistance in 70% of attempts.

Evaluation Procedures: Data collection, therapist observation

Benchmark# 2: Lane will take 3 steps in a row with both feet on a balance beam in 50% of attempts.

Evaluation Procedures: Data collection, therapist observation

Benchmark# 3: Lane will jump up with both feet leaving the floor at the same time in 50% of attempts.

Evaluation Procedures: Data collection, therapist observation

Benchmark# 4: Lane will balance on one foot for at least one second without assistance, on either foot, in 70% of attempts.

Evaluation Procedures: Data collection, therapist observation

Goal 9: Over the course of 36-weeks Lane when given academic tools (ie paper/pencil, scissors, crayons, technology, scanning a book for pre-reading) will use these tools at an age appropriate or near age appropriate level. His performance will be at the Supervision levelÉVerbal assistance provided 100% of the time.

Baseline: Lane's current performance with academic tools is at the Maximum Assistance level. On a scale of 1-7 Lane would be rated at a 2 for the Maximum Assistance levelÉwith 1 being the low end and 7 being the high end of the scale.

Benchmark# 1: 50%É80%É100%Éof trials Lane will with Supervision write his name and home address with appropriate word alignment, letter formation, letter spacing and word spacing, using an age

appropriate skill set.

Evaluation Procedures: Observation + consultation with teacher + motor screen + SSP

Benchmark# 2: 50%É80%É100%Éof trials Lane will with Supervision cut various forms (circle, square, diamond and triangle) using an age appropriate skill set.

Evaluation Procedures: Observation, Consultation, Motor Screen and SSP

Benchmark# 3: 50%É80%É100%Éof trials Lane will with Supervision color various forms (circle, square, diamond and triangle) using an age appropriate skill set.

Evaluation Procedures: Observation + Consultation + Motor Screen + SSP

Benchmark# 4: Benchmark/Objective #4...50%É80%É100%Éof trials Lane will use technology withÉ Supervision Éwhile participating in games or academic programs, using an age appropriate skill set.

Evaluation Procedures: SSP, Rated observation, Data Tracking, Consulting w/Teacher.

Benchmark# 5: Benchmark/Objective #5...50%É80%É100%Éof trials Lane will with Supervision copy a sentence from a book, using an age appropriate skill set.

Evaluation Procedures: SSP, Rated observation, Data Tracking, Consulting w/Teacher.

Anticipated Services to be Provided

Special Education Services

Instruction Provided: Attendant Care Support, and/or special education teacher and para, as well as whole group instruction from the general ed teacher

Anticipated Frequency: Daily

Duration: 430 minutes (entire school day) 5 days a week

Location: The general education classroom and resource room to work on cognitive skills in an area with few distractions, and to use computers and software to increase his sign language and reading and math skills, or when Lane is needing a break from the class routine.

Related Services

Related Service Provided: speech language therapy,

Anticipated Frequency: 3 times per week

Duration: 20 minutes for speech/language,

Location: classroom or pullout services, depending on what will be adressed in the session or what activities are occurring in the classroom.

Related Service: Physical Therapy

Frequency: 2 times per week, 20 minutes each session

Duration: 35 weeks

Location: in his school building

Physical therapy services will be provided by the therapy staff (physical therapist and/or trained paraprofessional) in a pull-out, individual setting in the school building. Any negative effect of being separated from his peers for therapy is outweighed by the positive impact of individual therapy sessions.

Occupational Therapy to see Lane 2x per week for 20 minutes per session over 36 weeks.

Elementary Aids and Services

Lane will have attendant care support for the entire day in the kindergarten and the 1st grade classroom for approximately 370 minutes per day, and in the resource room for a minimum of 60 minutes a day, 5 days per week, or as needed for the duration of his school year. Lane is able to be a part of the general education classroom with attendant care support. Lane seems to be less distracted in the resource room where he can receive instruction in targeted areas one on one. Lane will also be pulled to work on speech/language skills, occupational therapy, and physical therapy.

LANE'S CLASSROOM TEACHER/PARAS WILL REINFORCE SKILLS WHICH HE HAS LEARNED IN SPEECH-LANGUAGE THERAPY. THEY WILL USE SIGNS AND WILL MAKE REQUESTS/PROMPTS TO ENCOURAGE LANE USE COMMUNICATE SKILLS.

Program Modifications and Staff Training

Program Modifications & Accommodations Provided: Modifications are made for Lane as needed by the special education teacher and/or attendant care, and/or paraprofessional, as well as the general education teacher. Lane also receives books in sign language. His letters, numbers, colors, shapes, etc. will also be taught using sign language.

Anticipated Frequency: Daily

Duration: 430 minutes 5 days a week

Location: General education classroom and resource room, SL, OT, PT rooms

Staff Training Required: Staff is receiving training in sign language and animated literacy.

Staff Supports and Training Required: The paraprofessional will be trained by the physical therapist to provide PT services. The physical therapist will monitor the program at least monthly.

Occupational Therapist to provide para inservices training regarding this students individual therapy program.

Supports for School Personnel

() This student's needs can be met through normal school resources. No additional supports for school personnel are needed.

() Additional supports for school personnel are needed for this student.

Please list: Lane requires an attendant care to work with him throughout his school day, so that he may participate in activities and be a part of the general education classroom.

Educational Placement

Lane will be in the regular classroom with attendant care support for most classroom experiences, he may be pulled to the side of the classroom or the resource room to receive reinforcement of cognitive skills, sign language, class rules, to use computer programs, listen to educational songs, or if he is needing a break. Individual assistance when needed.

Family will provide opportunities for school and community functions such as ballgames, community activities, etc.

LANE WILL RECEIVE SPEECH/LANGUAGE THERAPY 3 SESSIONS A WEEK - 60 MINUTES/WEEK

The IEP team has determined that for Lane to have opportunities to participate with non-identified peers in extracurricular and nonacademic activities, regularly-scheduled special education and related services may not occur when their delivery would prevent the child from participating in field trips, assemblies, special events for the general education classroom or school, state or district-wide assessments, and other such activities.

Potential Harmful Effects

Are there any potential harmful effects of the recommended placement on the student and/or the quality of services for the student?

The positive effects of Lane's placement outweigh the potential harmful effects.

Please explain.

Lane is able to participate in activities with the general education class with support from his attendant care. While Lane is in the resource room he is able to receive direct one on one instruction in an environment with few distractions.

Participation in District-wide Assessments

Student will participate in all District-Wide assessments without accommodations.

Student will participate in District-Wide assessments with these accommodations in the following area(s):

reading: small group setting, visual clues, extra time, auditory instructions, scribe

math: manipulatives, extra time, small group, auditory instructions, test read, scribe

writing: extra time, small group, auditory instructions, scribe

Student will participate in District-Wide assessments with these modifications in the following area(s):

Student will participate in an alternate District-Wide assessment as described below:

Student is not age appropriate for District-Wide assessments. Evaluations were completed by ECSE teacher and staff.

Participation in State Assessments

Student will participate in all State assessments without accommodations.

Student will participate in the State assessments with these accommodations in the following area(s):

Student will participate in the Modified State assessment only in the following area(s):

Student will participate in the Alternate State assessment.

Student is not age appropriate for state assessments.

Extended School Term

Are Extended School Term services necessary for this student with a disability?

Yes No

If the above answer is Yes:

The IEP Team currently has enough information to determine necessary ESY program plans and services and they are contained in this IEP.

The IEP Team has enough information to determine necessary ESY services at this time BUT will need to gather additional data to determine specific program plans and services. The team will reconvene on this date: _____ to determine ESY program plans and services and will amend the IEP at that time.

Behavior Intervention Plan

Lane will follow the district behavior plan with extra verbal warnings before moving onto a behavior plan. Positive reinforcement and incentives are also an important part of Lane's success in the general education environment.

Assistive Technology Plan

Lane has used a reverse walker to assist with independent mobility, he can walk on his own, but tires easily. He may also use other assistive devices throughout the year as his abilities change.

Lane also has a touch window and software for use with the computer.

Team Considerations

1) This student participates in:

Regular PE

Adaptive PE

2) This child's behavior impedes his/her learning or that of others?
 YES If YES, a copy of Behavior Intervention Plan MUST be attached.
 NO

3) Is this child blind or visually impaired?
 YES
 NO

4) Is this child deaf or hard of hearing?
 YES
 NO

5) Does this child have limited English proficiency
 YES
 NO

Special Considerations

A DIGITAL CAMERA WILL BE USED TO TAKE PICTURES. THESE PICTURES WILL BE A VISUAL CUE TO AID IN LANE'S COMMUNICATION SKILLS.

Lane may take more frequent breaks than other kindergarteners, especially when walking to the lunch room, to PE/Music, and to and from the bus. Activities and work time should be brief and interesting to help keep his attention on the desired task.

Due to state guidelines, a doctor's referral must be received by Tri-County each school year before physical therapy services can be provided. The referral form is provided by mail at the beginning of each new school year. Lane has a current doctor's referral on file for the 2004-05 school year.

Progress Report

How often will the Parent(s)/Legal Decision Maker be informed of the student's progress?

- At least one time every
- quarter
 - 8 weeks
 - 6 weeks
 - 4 weeks,

~~which is at least as often as parents are informed of their nonexceptional children's progress.~~

What means will the Parent(s)/Legal Educational Decision Maker be informed of the student's progress?

Check all that apply:

- written report
- parent-teacher conference
- _____

Spectra

TRI-COUNTY INTERLOCAL 607
220 EAST CHESTNUT - P. O. DRAWER 668
INDEPENDENCE, KS 67301

SPECTRA INFORMATION

Information to be completed by Parents/Guardians for the Kansas Local Agency Medicaid Billing Program.

Students name: _____

Students Social Security Number: _____

Students Medicaid Number: _____

Students Birth date: _____ Students Sex: M F

Students Address: _____
Street City/State Zip

Students Phone Number: _____

Name of School Student Attends: _____ USD: _____

Parent/Guardian Name: _____

Name of Students Doctor: _____

Doctors Address: _____
Street City/State 67301

Doctors Phone Number: _____

RELEASE OF INFORMATION AUTHORIZATION SPECTRA PROJECT

My signature below authorizes the school district indicated above and the Kansas State Department of Education to share with the Kansas Medicaid Agency my child's identification and IEP information. This information is to be used to allow the school district to claim Medicaid funds for health related services delivered to my child.

I am aware that the Local education Agency is responsible for providing special education and related services as listed on my child's IEP at no additional cost to me. ~~My signature or failure to sign this form will not change the special education~~

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r related services to my child. I have read and understand this information.

Parent/Guardian Signature _____ Date _____

Spectra Phone: 888-654-8701 Fax: 620-724-7141

CLASSROOM VOCABULARY (Speech / Language Objectives)

Cookie

Milk

Crack

End

Here

Welcome

Thank you

Please

Sing

Color

Walk

Sit

Bus

Play

out

Swing

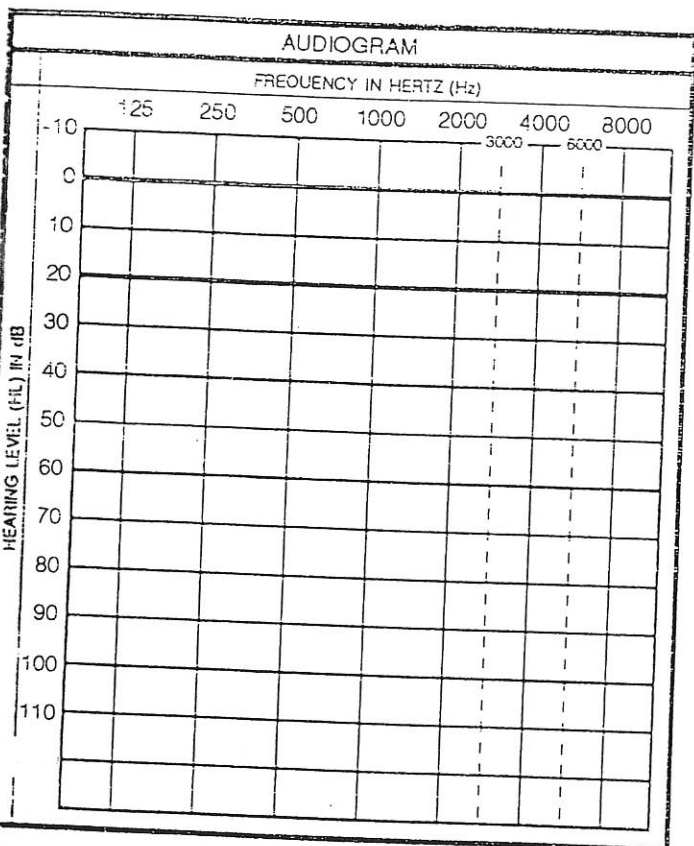
Slide

Up

Down

Try

NAME: Lane Dickson
 D.O.B.: 8-20-98 AGE: 5
 SCHOOL: Garfield GRADE: K AM
 TEST SITE: School DATE: 8-06-03
 AUDIOLOGIST: Heidi Daley, M.S.C.C.
LIC. 00274



HISTORY
 Ref by Sue Gallagher, school nurse
 per Dr. Holland's request.

OTOSCOPY

Right Ear	Left Ear
<input type="checkbox"/> Sufficiently clear for testing	<input type="checkbox"/>
<input type="checkbox"/> Excessive cerumen/canal obstruction	<input type="checkbox"/>
<i>could not visualize TM</i>	<i>Tube visualized</i>

TYMPANOMETRY

Right Ear	Left Ear
<input checked="" type="checkbox"/> Normal middle ear function	<input type="checkbox"/>
<input type="checkbox"/> Reduced Middle ear mobility	<input checked="" type="checkbox"/>
<input type="checkbox"/> Negative middle ear pressure	<input type="checkbox"/>
<input type="checkbox"/> Large equivalent volume consistent with patent tubes or TM perforation	<input type="checkbox"/>

SPEECH AUDIOMETRY

	EAP	SAT	SRT	SD %	Level	LIST
MLV <input type="checkbox"/>	R	2				
TAPE <input type="checkbox"/>	L					
	SF	<i>CNT</i>				
	BC					

Test Reliability:
 Method: *unable to assess sensitivity*

SPECIAL TESTS/COMMENTS
Accompanied by classroom para - throws CPA toys -

KEY

R L	S/Z	Sound Field Threshold	DNT	Did Not Test
AC O X	SAT	Speech Awareness Threshold	CNT	Could Not Test
asked Δ □	SRT	Speech Reception Threshold	VRA	Visual Reinforcement Aud.
BC < >	A	Aided Threshold	BOA	Behavioral Observation Aud.
asked []	+	Single Response	CPA	Conditioned Play Aud.
NR < >				

CLASSROOM CONSIDERATIONS

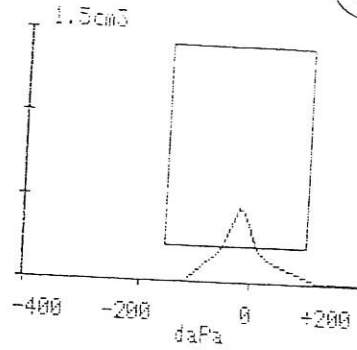
PHYSIOLOGICAL RESULTS/RECOMMENDATIONS:
 Tube visualized (left ear)
 ↓ mobility of eardrum (2 volume). Normal eardrum mobility (right ear) - could not see TM with scope. Unable to 'assess' hearing sensitivity due to *location. Lane distracted by objects in room.
 c) continue under Dr. Holland's care, for tubes - check

381 37 AUTO TAMP

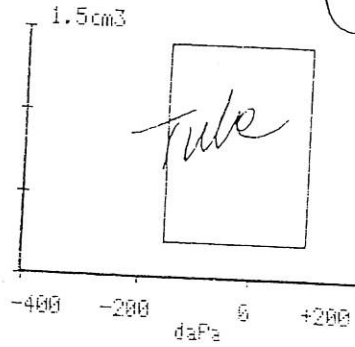
NAME Lene Dickson

DATE 8/26/03

EDU: 0.4 cm³ PEAK: 0.5 cm³
GR: 50 daPa = 25 daPa



EDU: 0.2 cm³ PEAK: NP cm³
GR: daPa NP daPa



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KIDSS

Tri-County Interlocal 607
220 East Chestnut - P. O. Drawer 668
Independence, KS 67301
(620) 331-6303

Report Date: 03/15/2005

PROGRESS REPORT

Printed by: Hager,
 Elizabeth

All statuses

This report shall inform the parents/guardians about the student's progress towards meeting the Annual Goals.

Student's Name: Michael L Dickson **Grade:** KG **Birthdate:** 08/20/1998 **Teacher:** Hager, Elizabeth
Attendance School: Community Elementary **Annual Meeting:** 09/03/2004
Neighborhood School: Community Elementary **School Year:** 2004-2005

G#	Measurable Annual Goal			
1	In 36 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 100% accuracy. Baseline: At school Lane names red, black, purple, and sometimes yellow.			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	In 9 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple)with 65% accuracy when prompted.	Daily work, teacher observation	10/25/2004	Yes When asked Lane is able to select the color specified with 65% accuracy. The colors that seem to be most difficult to distinguish between are black, brown, and white. Some days he may name all of his colors, other days it is more difficult to keep him on task.
2	In 18 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 80% accuracy.	Daily work, teacher observation	12/20/2004	No When asked Lane will choose the correct color out of a set of colors with 75% accuracy.
3	In 27 instructional weeks, Lane will name colors (red, blue, yellow, green, black, brown, purple) by using sign language or speaking with 90% accuracy.	Teacher observation, daily work	03/11/2005	No Lane names his colors with, depending on his mood with 75% of the time.
4	In 36 instructional weeks, Lane will name colors (red, blue, yellow, green, black,	Daily work, teacher observation		

brown, purple) by using sign language or speaking with 100% accuracy.		
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G#	Measurable Annual Goal			
2	In 36 instructional weeks, Lane will count from 1-20 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher. Baseline: Lane can consistently count to 6 using the signing points with his fingers.			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	In 9 instructional weeks, Lane will count from 1-10 using his hands (signing) with 85% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.	Daily Work, Teacher Observation	10/25/2004	No Lane counts with assistance, he is working on pronouncing the numbers after his attendant care, and/or para professional say them first. He will also count along with an adult, and try to say the number that comes next. It seems very difficult for Lane to form his fingers to the appropriate numbers, but he is still working on that task.
2	In 18 instructional weeks, Lane will count from 1-10 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.	Daily Work, teacher observation	12/20/2004	No Lane is still practicing pronouncing and forming the numbers with his fingers. He counts to 5 with 85% accuracy.
3	In 27 instructional weeks, Lane will count from 1-20 using his hands (signing) with 85% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.	daily work, teacher observation	03/11/2005	Yes Lane counts to 12, using his fingers with 90% accuracy, he will count to 20 with assistance (repeating).
4	In 36 instructional weeks, Lane will count from 1-20 using his hands (signing) with 100% accuracy as measured by the attendant care, special education teacher or para, and the general education teacher.	Daily Work, Teacher Observation		

G#	Measurable Annual Goal
3	In 36 instructional weeks, Lane will sign or say 20/20 classroom vocabulary words with 85%

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accuracy as measured by special education staff and the general education teacher. Baseline: Lane currently signs 5/20 words from his vocabulary list.				
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	In 9 instructional weeks, Lane will sign or say 8/20 classroom vocabulary words with 70% accuracy as measured by special education staff and the general education teacher.	Daily Work, teacher observation	10/25/2004	Yes Lane currently signs and says the words apple, book, orange, cookie, milk, cry, sorry, thank you, and dog with 70-75% accuracy, depending on the day and how well he is wanting to work.
2	In 18 instructional weeks, Lane will sign or say 10/20 classroom vocabulary words with 80% accuracy as measured by special education staff and the general education teacher.	daily work, teacher observation	12/20/2004	Yes Lane currently signs and says the words apple, book, orange, cookie, milk, cry, sorry, thank you, and dog with 85% accuracy, depending on the day and how well he is wanting to work.
3	In 27 instructional weeks, Lane will sign or say 15/20 classroom vocabulary words with 85% accuracy as measured by special education staff and the general education teacher.	daily work and teacher observation	03/11/2005	Yes Lane is doing great! He was mastered the 20/20 classroom vocabulary words and beyond.
4	In 36 instructional weeks, Lane will sign or say 20/20 classroom vocabulary words with 85% accuracy as measured by special education staff and the general education teacher.	Daily Work, Teacher Observation		

G#	Measurable Annual Goal			
4	In 36 instructional weeks, Lane will recognize 52/52 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, letter games, words in text, and other activities. Baseline: Lane currently does not name letters or sounds when asked by the special education teacher.			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	In 9 instructional weeks, Lane will recognize 10/10 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash	Daily Work, teacher observation	10/25/2004	No Lane practices saying letters of the alphabet after they have been shown and pronounced for him. He does not usually recognize the letter on his own

	cards, words in text, and other activities.			
2	In 18 instructional weeks, Lane will recognize 20/20 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.	Daily Work, teacher observation	12/20/2004	No Lane practices saying letters of the alphabet after they have been shown and pronounced for him. He does not usually recognize the letter on his own.
3	In 27 instructional weeks, Lane will recognize 40/40 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.	daily work, teacher observation	03/11/2005	No Lane recognizes some letters, like a, b, c, x, o,g, sometimes e and other random letters, but they are not of great interest to him.
4	In 36 instructional weeks, Lane will recognize 52/52 upper and lower case letters (by signing or saying) with 75% accuracy when prompted with flash cards, words in text, and other activities.	Daily work, teacher observation		

G#	Measurable Annual Goal			
6	IN 36 WEEKS, WHEN GIVEN A PROMPT, (EX. TELL ME/PICTURE),LANE WILL SAY OR SIGN THE TARGETED CLASSROOM WORDS - 75% OF THE TIME AS OBSERVED BY THE PARAS,SLP/TEACHER THROUGH OUT THE SCHOOL DAY. Baseline: 5/20 (CLASSROOM VOCABULARY WORDS) - SIGN OR IMITATE SEE ATTACHED CLASSROOM WORD LIST)			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	IN 9 WEEKS, LANE WILL IMITATE 10/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.	WEEKLY DATA, OBSERVATIONS	12/22/2004	Yes Lane has achieved this objective.
			10/22/2004	Yes Within the therapy room, Lane is working on animal names, common objects and relevat, functional holiday (such as Trick-or-Treat, jack-o-lantern, etc.) signs and verbal words. He is

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				producing an average of 8 words or sings spontaneously.
2	IN 18 WEEKS, LANE WILL IMITATE 15/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.	WEEKLY DATA, OBSERVATIONS	12/22/2004	Yes Within the therapy room, Lane is imitating signs with 85% accuracy. He is verbalizing the words with 90% accuracy.
3	IN 27 WEEKS, LANE WILL IMITATE 20/20 VOCABULARY WORDS/SIGN AS OBSERVED BY THE SLP/PARAS/TEACHER THROUGH OUT THE SCHOOL DAY.	WEEKLY DATA, OBSERVATIONS		

G#	Measurable Annual Goal			
7	IN 36 WEEKS,LANE WILL CORRECTLY NAME (SAY WORD/SIGN) 20 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY. Baseline: ANIMALS - 2/10 (SAID MOO FOR COW) COLORS - 3/10 FAMILY MEMBERS 3/4			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	IN 9 WEEKS,LANE WILL CORRECTLY NAME 5 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.	WEEKLY DATA, OBSERVATIONS	12/22/2004	Yes Spontaneous production of words or signs occure with 50% accuracy. We have started 2-3 word sentences using verbal words and signs.
			10/22/2004	Yes Within the therapy room, Lane is producing an average of 3 spontaneous verbal only reponses. Vocabulary is ongoing.
2	IN 9 WEEKS,LANE WILL CORRECTLY NAME 10 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER	WEEKLY DATA, OBSERVATIONS		

	OVER THE SCHOOL DAY.			
3	IN 27 WEEKS,LANE WILL CORRECTLY NAME 15 PICTURES/OBJECTS AND GIVEN A VERBAL PROMPT, AS RECORDED BY THE SLP/PARAS/TEACHER OVER THE SCHOOL DAY.	WEEKLY DATA, OBSERVATIONS		

G#	Measurable Annual Goal			
8	Lane will improve his stair negotiation, balance, and jumping skills to meet all of the following objectives by September 2005. Baseline: Lane steps up and down relying heavily on one hand assistance. He is able to walk a balance beam with one foot on and one foot off. He is starting to jump on a trampoline. He can stand briefly on one foot with one hand assistance.			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	Lane will step up and down one step (8") without assistance in 70% of attempts.	Data collection, therapist observation	01/19/2005	Yes Lane continues to step up and down with one hand assistance.
			10/26/2004	Yes Lane uses one hand assistance for stepping up and down. He is still often reluctant to practice this skill during therapy time.
2	Lane will take 3 steps in a row with both feet on a balance beam in 50% of attempts.	Data collection, therapist observation	01/19/2005	Yes Lane continues to practice walking with his feet closer together, which is the first step toward walking with both feet on the balance beam. He has already achieved the skill of walking with one foot on the beam and the other foot on the floor.
			10/26/2004	Yes Lane is practicing walking with his feet closer together, which is the first step to walking with both feet on the balance beam . He has already achieved the skill of walking with one foot on the beam and the other foot on the floor.
3	Lane will jump up with both feet leaving the floor at the same time in 50% of attempts.	Data collection, therapist observation	01/19/2005	Yes Lane is able to jump on the mini-trampoline with both feet leaving the

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	attempts.			surface, with both hands held. He often prefers to do other activities instead of jumping.
			10/26/2004	Yes Lane is able to jump on the mini-trampoline with both feet leaving the surface, with both hands held. He usually enjoys this activity and is really bending his knees well.
4	Lane will balance on one foot for at least one second without assistance, on either foot, in 70% of attempts.	Data collection, therapist observation	01/19/2005	Yes Lane is now much more capable of balancing on one foot without assistance. He practices kicking balls, kicking bubbles, and lifting bean bags into a bucket with his foot. He can balance on either foot for less than one second without assistance.
			10/26/2004	Yes Lane prefers to have one hand held, but he can balance on one foot momentarily.

G#	Measurable Annual Goal			
9	<p>Goal Over the course of 36-weeks Lane when given academic tools (ie paper/pencil, crayons, scissors, technology, and scanning the academic environment) will use these tools 80% of the time at an age appropriate or near age appropriate level. His performance will be at the Supervision levelÉincludes completing the task with verbal assistance to complete the task.</p> <p>Baseline:Baseline LaneÕs current performance with academic tools is at the Maximum Assistance level. On a scale of 1 * 7ÉLane would be rated at a 2 - for the Maximum Assistance levelÉwith 1 being the low end and 7 being the high end of the scale.</p>			
B#	Short Term Benchmark/Objective	How will progress be measured?	Date	Monitoring: Is progress toward the annual goal adequate to achieve goal?
1	<p>Benchmark/Objective #1 50%...80%...100%...of trials Lane will with Supervision write his name, address and home telephone number and a piece of paper with appropriate word alignment, letter formation, letter spacing and word spacingÉusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen,</p>			

	Short Sensory Profile and Clinical Observation of Neuromotor Performance.			
2	Benchmark/Objective #2 50%...80%...100%...of trials Lane will with Supervision cut various forms (including circle, square, diamond and triangle)Éusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance.			
3	Benchmark/Objective #3 50%...80%...100%...of trials Lane will with Supervision color various forms (including circle, square, diamond and triangle)Éusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance.			
4	Lane is a KG student at Community Elementary School in Coffeyville, Ks. He is currently receiving Occupational Therapy services. Assessment of this students need for Occupational Therapy services was achieved with the following assessment tools: 1) Motor Screen, 2) Short Sensory Profile and /or Long Sensory			

Profile, 3) Clinical Observation of Neuromotor Performance. Goal Over the course of 36-weeks Lane when given academic tools (ie paper/pencil, crayons, scissors, technology, and scanning the academic environment) will use these tools 80% of the time at an age appropriate or near age appropriate level. His performance will be at the Supervision levelÉincludes completing the task with verbal assistance to complete the task. Baseline LaneÕs current performance with academic tools is at the Maximum Assistance level. On a scale of 1 * 7ÉLane would be rated at a 2 - for the Maximum Assistance levelÉwith 1 being the low end and 7 being the high end of the scale.

Benchmark/Objective #1
50%...80%...100%...of trials Lane will with Supervision write his name, address and home telephone number and a piece of paper with appropriate word alignment, letter formation, letter spacing and word spacingÉusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance.

Benchmark/Objective #2
50%...80%...100%...of

trials Lane will with Supervision cut various forms (including circle, square, diamond and triangle)Éusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance. Benchmark/Objective #3 50%...80%...100%...of trials Lane will with Supervision color various forms (including circle, square, diamond and triangle)Éusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance. Benchmark/Objective #4 50%...80%...100%...of trials Lane will use technology with Minimal Assistance while participating in games or academic programsÉusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance. Benchmark/Objective #5

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	<p>50%...80%...100%...of trials Lane will with Supervision copy a sentence from a bookÉusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance.</p>			
<p>5</p>	<p>Benchmark/Objective #5 50%...80%...100%...of trials Lane will with Supervision copy a sentence from a bookÉusing an age appropriate skill set. How will progress be measured Observation, consultation with OT para, Classroom Teacher and Special Education Teacher. Annual review of motor screen, Short Sensory Profile and Clinical Observation of Neuromotor Performance.</p>	<p>Observation and consultation</p>		

Below is an excerpt from an Easter Seals press release, followed by a U.S. Census Bureau Fact Sheet. Some of the numbers don't quite mesh, but given the complexity of surveying people with disabilities, this is not surprising. What may be surprising, though - especially in this election year - is the fact that 84 percent of polling places are not accessible. You will also learn about the two places in the U.S. with the highest incidence of disabilities.

Consider the facts:

- a.. One out of five students with disabilities drops out of high school
- b.. Two out of three people with disabilities not working want to, but a lack of opportunities and accessibility issues prevent them
- c.. Approximately 8 million of the 41 million uninsured Americans are people with disabilities
- d.. People with disabilities are among the poorest in our nation - twice as likely as people without disabilities to have a household income of \$15,000 or less
- e.. Approximately 560,000 people with disabilities indicate they never leave home because of transportation difficulties
- f.. 84 percent of polling places are not accessible
- g.. In general, people with disabilities are less likely to say they are very satisfied with life (only 34 percent) compared to people without disabilities (61 percent)

WASHINGTON, July 20 /U.S. Newswire/ - The Census Bureau released the following Facts for Features on the Anniversary of the Americans with Disabilities Act (July 26):

On this day in 1990, President George H.W. Bush signed into law the Americans with Disabilities Act, guaranteeing equal opportunity for people with disabilities in public accommodations, commercial facilities, employment, transportation, state and local government services and telecommunications.

Population Distribution

49.7 million - Number of people age 5 and over in the civilian noninstitutionalized population with at least one disability, according to Census 2000; this is a ratio of nearly 1-in-5 U.S. residents, or 19 percent. These individuals fit at least one of the following descriptions: 1) they are 5 years old or older and have a sensory, physical, mental or self-care disability; 2) they are 16 years old or older and have difficulty going outside the home; or 3) they are 16-to-64 years old and have an employment disability.

By age and sex

- a.. 7 percent of boys and 4 percent of girls ages 5 to 15 have disabilities.
- b.. 20 percent of men and 18 percent of women ages 16 to 64 have disabilities.
- c.. 43 percent of women and 40 percent of men 65 or older have disabilities.

General

- a.. 24 percent - Percentage of West Virginia residents 5 or older who have at least one disability, the highest rate in the nation. (West Virginia also has the highest median age of any state.) The Mountaineer State is closely followed by Kentucky, Arkansas, Mississippi and Alabama. Counties with very high disability rates are clustered in the coal mining areas of Kentucky, West Virginia and Virginia. These counties are Bell, Breathitt, Clay, Harlan, Leslie, Martin and Owsley in Kentucky; Buchanan in Virginia; and McDowell in West Virginia.
- b.. 30 percent - Percentage of residents of Paterson, N.J., who have at least one disability. Paterson, N.J.; Miami, Fla.; and Newark, N.J., have the highest proportions of people with disabilities among places with 100,000 or more residents.
- c.. 46 percent - Percentage of people with disabilities reporting more

than one disability.

d.. 60 percent - Percentage of working-age men with disabilities who are employed. For women, the rate is 51 percent. Altogether, 10.4 million men and 8.2 million women with disabilities are employed.

e.. 1.9 million - Number of people ages 18 to 34 who have disabilities and are enrolled in school. They comprise 12 percent of all students in this age group. The majority of this group (1.4 million) attend college or graduate school.

For further information on the data in this section, see <http://www.census.gov/prod/2003pubs/c2kbr-17.pdf>.

Specific Disabilities

a.. 9.3 million - The number of people age 5 or older in 2000 with a sensory disability involving sight or hearing. This group accounts for 3.6 percent of the total population age 5 or over.

b.. 21.2 million - The number of people age 5 or older with a condition limiting basic physical activities, such as walking, climbing stairs, reaching, lifting or carrying. This group accounts for 8.2 percent of the total population age 5 or older.

c.. 12.4 million - The number of people age 5 or older with a physical, mental or emotional condition causing difficulty in learning, remembering or concentrating. This group accounts for 4.8 percent of the total population age 5 or older.

d.. 6.8 million - Number of people age 5 or older who have a physical, mental or emotional condition causing difficulty in dressing, bathing or getting around inside the home. This group accounts for 2.6 percent of the total population age 5 or older.

e.. 18.2 million - Number of people age 16 or older who have a condition that makes it difficult to go outside the home to shop or visit a doctor. This group accounts for 8.6 percent of people who are of this age.

f.. 21.3 million - Number of people ages 16 to 64 who have a condition that affects their ability to work at a job or business. They account for 11.9 percent of the people in this age group. For further information on the data in this section, see

<http://www.census.gov/prod/2003pubs/c2kbr-17.pdf>.

Earnings

a.. \$28,803 - Median 1999 earnings of the 12 million year-round, full-time workers who have any of the six disabilities mentioned above. By comparison, people with none of these disabilities had median earnings of \$33,970 <http://www.census.gov/population/www/cen2000/phc-t32.html>.

Serving Our Nation

a.. 2.4 million - Number of veterans who receive compensation for service-related disabilities. Of these vets, 440,000 served in World War II; 165,000 in Korea; 799,000 in Vietnam; and 419,000 in the Persian Gulf. See Table 531 at www.census.gov/prod/www/statistical-abstract-03.html.

Websites

www.reedmartin.com

www.ourchildrenleftbehind.com

www.wrightslaw.com

www.familiestogetherinc.org

"The [IDEA] fight isn't over. The changes approved by the Conference Committee and by Congress still must go through the rulemaking process and all 50 states – and all of their local school districts – need to implement the changes. There are many places and ways we parents and advocates can make a difference in how the 'new' law actually gets put into place in local schools. OCLB is learning about rulemaking plans and ways to influence the process. You can be sure we will remain involved."

And we shall remain involved, but in a streamlined fashion. The IDEA changes signed into law in December take effect this coming July. Over the next several months www.OurChildrenLeftBehind.com will remain your "go to" site for the latest information on the IDEA implementation process. We also will be making timely suggestions on how you can help minimize the damage to IDEA by working to keep your state special education laws and rules strong.

But the saying goes that "all politics is local." And so it is. The spotlight is off Congress. The fight now is going to be in the state legislatures and local school districts. The soldiers in this fight now must be the parents and families who live in the states and the local and state parent organizations who support them.

We founders formed OCLB to unite, inspire and support parents, families and organizations in the massive national effort to save IDEA in Congress. OCLB cannot fulfill the same role in 50 separate states and thousands of local districts. We have given the direct support we can, but now it's your turn. The job is local, and the locals have to run it.

During the IDEA rulemaking stage OCLB will modify its Home page practices. We will publish OCLB Home pages intermittently, but not more than once a week. Instead we are shifting our efforts to the parts of OCLB's site that let you, the reader, inform your neighbors and supporters about the activities and strategies being used in your states.

To that end, we strongly encourage you to take advantage of our [IDEA Reauthorization Message Board](#). It provides a venue through which you can share your thoughts and experiences. To make it even simpler, we've removed the requirement that you must register with ezBoard in order to post. (This also means that posts can be made anonymously, if that's an issue for you.)

If you've attended or plan to attend one of the [public meetings](#), we (and undoubtedly many others) would love to hear about it! A couple parents have already done so. (See p078.ezboard.com/fourchildrenleftbehindfrm2.showMessage?topicID=229.topic and p078.ezboard.com/fourchildrenleftbehindfrm2.showMessage?topicID=230.topic)

If you've submitted input via e-mail, please post it on the [Message Board](#) so that others can see your contribution. Don't assume your concerns are being expressed by others! As you prepare your feedback, you might find the following resources helpful: the [CRS Analysis of IDEA 2004](#) and [A User's](#)

Guide to the 2004 IDEA Reauthorization (P.L. 108-446 and the Conference Report) by Bobby Silverstein, J.D., Director of The Center for the Study and Advancement of Disability Policy.

OCLB is going to go to the end of the reauthorization process with you. We look forward to your input and suggestions. As huge as the action in Congress was, it doesn't compare with what parents and families now face in the individual states. But remember this: The people who really must hear from you now are not your Senators or Representatives. The people who need you most are your children, your neighbors who parent children who have special needs, and your local school districts. Parents remain central to the IDEA process. We just must hold on to and help each other now more than ever before. OCLB wants to help, but you have to do this last part for yourself. That is as it should be.

Tricia, Calvin, and Debi
today's parentvolunteer@ourchildrenleftbehind.com

Action Alert**IDEA 2004 SUMMARY**

December 20, 2004

This is a summary of some of the most critical changes affecting children with disabilities and their families in IDEA 2004, concentrating on the IEP process, due process and the discipline provisions. How these changes affect our children will depend, at least in part, on how the U.S. Department of Education interprets them through policies and regulations and how they are implemented at the state, district and school level. Most of these changes will be effective as of July 1, 2005.

A new provision in the Act authorizes the Secretary to issue only regulations necessary to secure compliance with the statute. This provision may limit the Secretary's authority to issue regulations that could be useful in clarifying ambiguities. A new section of the Act also suggests that states minimize the number of rules, regulations and policies to which the school districts are subject.

This law, as amended by the 2004 changes, will not provide mandatory full funding. Although the annual amounts now authorized (permitted) to be spent on IDEA would achieve full funding in six years, that assumes these amounts will actually be appropriated (spent), and explains why mandatory funding of IDEA is so important. In fact, two days after Congress passed the IDEA Conference Report with its "glide path to full funding" it appropriated significantly less funding for special education than it had just promised.

IEP PROCESS

1. **Short-term objectives.** The long established obligation for IEP teams to spell out short-term objectives for meeting each child's measurable annual IEP goals no longer exists for most children. Such short-term objectives are only required for the very small percentage of children (generally less than 1% of students with disabilities) who are taking alternate assessments aligned to alternate achievement standards. The No Child Left Behind Act (NCLB) limits participation on these assessments to students with the most significant cognitive disabilities. NCLB also provides that both grade-level and alternate achievement standards should be aligned with state content standards. Parents should ensure that their child's academic IEP goals are also aligned with these standards. Short-term objectives are essential stepping

stones toward these goals for all students with disabilities, not just a very small percentage.

In states that offer alternate assessments aligned to alternate achievement standards, it is the IEP team that determines whether a child fits the criteria for students with the most significant cognitive disabilities. Parents, as members of the IEP team, may feel pressure to agree that their child fits these criteria in order to retain short-term objectives. Such pressure directly undermines the accountability provisions of NCLB.

Even if these short-term objectives are not mandated by law, all parents can still request their child's IEP team to identify them. IDEA 2004 still requires a description of how progress toward meeting will be measured and parents can contend that short-term objectives are the answer. Without short term objectives parents will have virtually no way of measuring whether their children are making progress in achieving their annual goals and will not be informed participants in their child's education. In addition, teachers will not have a guide as to the intervening steps that should be taken towards achieving these goals and when they should be taken. Teachers will also have great difficulty developing meaningful progress reports to the parents.

2. IEP progress reports. The progress the child is making toward meeting the annual goals must be reported, but there is no longer a reference to "the extent to which the progress is sufficient to attain the goal by the end of the year." This information seems especially important to parents and teachers if there is a shared commitment to help all children learn to high standards set for all. Parents may see progress all year only to realize in June that the progress was not sufficient to meet the goal.

3. Transition information in IEP. The amendments clarify that the transition process for a student with a disability now begins at age 16 and is not merely a plan for transition. Parents should request that the student's IEP, when appropriate, include a statement of inter-agency responsibilities and any needed linkages since this language is no longer in the statute.

4. IEP attendance and participation. A new section allows IEP team members to be excused from attendance if their area is not being discussed. When this section is read with new provisions allowing alternate means of meeting participation (e.g. conference calls), consolidation of reevaluation

meetings and other IEP meetings, and a pilot program authorizing up to 15 states to use multi-year IEPs, the combined effect is a revolution in the traditional IEP meeting. Some say these are positive changes. Others are concerned that these provisions will limit cross fertilization of ideas and undermine the interdisciplinary nature of IEP meetings (team members each bring areas or "disciplines" of expertise to the table).

While written parental consent is required before these actions can occur, parents may find that they are under considerable pressure to provide their consent. At least once a year the parents should be able to get all the members of their child's team in one room, all sharing ideas for the benefit of the child. The potential richness of these conversations can not be anticipated in written reports submitted by excused members and conference calls do not allow for the same flow of ideas. You never know which IEP team member will turn the tide of a meeting.

5. Pilot program for multi-year IEPs. The Secretary of Education is authorized to approve proposals from up to 15 states to allow local school districts to offer, with parental consent, a multi-year IEP, not to exceed 3 years. This option will limit parent participation in their child's education by not having a comprehensive annual IEP review, except in certain situations. Also, 3-year IEPs will contain multi-year goals which can be expected to be less specific and harder to measure than annual goals -especially when benchmarks and short-term objectives are no longer required for all but those students with the most significant cognitive disabilities. Another serious problem is that the required elements under IDEA for these multi-IEPs are not as inclusive as for annual IEPs. This is true with respect to statements on progress reports, accommodations, supplementary aids and services and more. While, the states may include these as required elements in the multi-year IEPs, IDEA does not mandate that they do so. Parents in these states will have to consent to the 3-year IEPs that must be reviewed at natural transition points by the IEP team. Therefore, it will be critical that parents are informed, knowledgeable and well prepared to deal with any pressure that may be put on them.

6. Pilot program for paperwork reduction. The Secretary of Education is authorized to grant waivers of statutory and regulatory requirements, for a period not to exceed 4 years, to 15 states proposing to reduce excessive paperwork and non-instructional time burdens. The Secretary is prohibited from waiving requirements related to civil rights or the right of a child to a free appropriate public education (FAPE). How this process is implemented is a matter of special concern to

parents, who worry that many requirements in the IEP process which parents consider to be related to civil rights and FAPE, may be seen as contributors to the paperwork burden. Another significant concern is that "pilot" implies that this is the first step toward expanding these programs beyond the 15 states.

7. IEP team transition. Parents of a child transitioning from Part C services (early childhood) to part B services (school-age) can request an invitation to the initial IEP meeting be sent to representatives of the Part C system to assist with a smooth transition of services. This provision doesn't require a Part C representative to attend but it does encourage collaboration.

8. Transfers between school districts. Services comparable to those described in the IEP in effect before a child's transfer must be provided by the new school district. These services must continue until the previous IEP is adopted, or a new IEP is developed, adopted and implemented, in the case of a transfer in the same state or until a new IEP is developed, in the case of a transfer outside the state. This new provision will help parents of transferring students know what they can expect from their new schools.

DUE PROCESS

1. Procedural safeguards notice. The procedural safeguards notice will be distributed only once a year except that a copy will be distributed upon initial referral, when a parent makes a request for an evaluation, when a due process complaint has been filed or if a parent requests a copy. The notice will no longer be automatically distributed with the IEP team notice or upon reevaluation. This is only a problem if parents are unaware of their rights, including the right to request this notice if they need one.

2. Statute of limitations. Parents now have two years in which to exercise their due process rights after they knew or should have known that an IDEA violation has occurred. The interpretation of the language "should have known" will be critical.

3. Due process complaint notice. Parents who feel their child's educational rights are being compromised must file a complaint with the school district (with a copy to the state) identifying the name and contact information of the child, describing the nature of the problem with supporting facts and a proposed resolution. A new provision provides that the school district shall file a response within 10 days unless the district within 15 days notifies the state hearing officer

that it is challenging the sufficiency of the parent's due process complaint notice. The State hearing officer has 5 more days to make a finding. In addition to the obvious delay, of particular concern is that the complexity of filing for due process may have a chilling effect on parents.

4. Resolution session. Parents must go through a mandatory "resolution session" before due process. The school district will convene a meeting with the parents and relevant members of the IEP team within 15 days of when the school district receives the parent's due process complaint. The school district has 30 days from the time the complaint is filed to resolve the complaint to the satisfaction of the parents, after which a due process hearing can occur. This provision may encourage school systems to wait until a due process complaint is filed before trying to resolve issues. Attorney's fees are not reimbursed for work related to the resolution session.

5. Attorney's fees. Parent's attorneys may be responsible for paying the school system attorney's fees if a cause of action in a due process hearing or court action is determined to be frivolous, unreasonable, or without foundation. Parents may be responsible for the school system's attorney fees if a cause of action was presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. Obviously, parents should not file frivolous or improper causes of action, but it is important that school districts not use these changes in the law to intimidate parents. This could have a chilling effect on parents obtaining legal representation and filing valid complaints to improve their children's education.

6. Qualifications for Hearing Officers. A positive change is that there are now explicit qualification requirements for Hearing Officers.

DISCIPLINE

1. Stay put. The right of a student with a disability to "stay put" in his/her current educational placement pending an appeal is eliminated for alleged violations of the school code that may result in a removal from the student's current educational placement for more than 10 days. Previously the law only denied "stay-put" rights to students with disabilities involved in drugs, weapons or other dangerous behavior or activity. The right to "stay put" while a parent challenges the manifestation determination or proposed placement is a

critical element to ensuring a student's continued free appropriate public education in the least restrictive environment.

Moving back and forth between the current placement and an interim alternative educational setting during an appeal can have a significant negative impact on achievement for children who already have difficulty adjusting to transitions. Parents must remain vigilant and ensure that their children continue to be provided the educational programming and services they need to make progress toward meeting their IEP goals. If this progress is negatively affected, the school may recommend a change to a more restrictive setting for the future. In addition, for purposes of reporting Adequate Yearly Progress under the No Child Left Behind Act, individual schools do not have to count children who are transferred to alternative settings and are, therefore, not in the same school for the full academic year. This could create an incentive for disciplinary actions against students with disabilities.

2. Services to be received in interim alternative educational setting. A child is entitled to receive programming and services necessary to enable him or her to receive a free appropriate public education consistent with section 612(a)(1) during the period in which he/she is in an interim alternative education setting. Under IDEA 2004, the student must be provided services to enable him or her to continue to participate in the general education curriculum and to progress toward meeting the goals in the IEP. The new provision replaced language requiring that a child in an interim alternative educational setting receive services and modifications, including those described in the student's current IEP which will enable the child to meet the goals in the IEP. The change in language cannot be interpreted as diluting any of these services that are consistent with the definition of FAPE because a student with a disability must continue to receive FAPE during the period of removal from his/her current educational placement.

3. Manifestation Determination Review. Before IDEA 2004, the burden was on the school district to show that the behavior resulting in a disciplinary action was not a manifestation of the child's disability before being allowed to apply the same disciplinary procedures as they use for non-disabled children. The burden of proof for the manifestation determination review has now been shifted to the parents who have to prove that the behavior was caused by or had a direct and substantial relationship to the disability. The language requiring the IEP team to consider whether the disability impaired the child's ability to control or to

understand the impact and consequences of the behavior has been deleted. The language that gave the school an incentive to address behavior appropriately by requiring the IEP team to consider whether the IEP was appropriate has also been deleted.

Because the amendments to IDEA make it easier for schools to remove children for non-dangerous, non-weapon, non-drug related behaviors, and place the burden on parents to prove the connection between behavior and disability, parents will need to pay careful attention to the behavioral needs of their child in developing the IEP. Even if the child has not previously been subjected to disciplinary exclusion, parents may need to anticipate, to consider and spell out any concerns they may have about their child's possible emotional and behavioral responses particularly when they are not provided the supports and services they may need.

4. Special Circumstances. Since 1997, IDEA had expressly authorized schools to unilaterally remove children to an interim alternative educational setting for as long as 45 days for offenses involving drugs and weapons -even if the behavior was a manifestation of the student's disability. In addition, a hearing officer could make the same decision if it was determined based on a preponderance of the evidence that keeping the child in his/her current placement was substantially likely to result in injury to the child or others. Although school authorities have always had the authority to respond to an emergency and to unilaterally remove any student with or without a disability who is causing serious bodily injury to another, now schools can also unilaterally remove children for 45 days for "inflicting serious bodily injury." This term is defined as involving a substantial risk of death; extreme physical pain; protracted and obvious disfigurement; or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

The hearing officer in determining whether to remove a child because maintaining his/her current placement is substantially likely to result in injury to self or others is no longer required to consider whether the school district's proposed change in placement is based on a preponderance of the evidence. In addition, the amended statute no longer requires the hearing officer to consider whether the school has made reasonable efforts to minimize the risk of harm, including the use of supplementary aids and services. These changes, to the degree they have the effect of punishing the child even if proper supports could have prevented the problem, arguably violate Section 504 of the Rehabilitation Act.

5. **45 day limit.** The 45 calendar day limit on the removal for these offenses has been changed to 45 school days, which is significantly longer [now 9 instead of 6 weeks of school at a critical time when students with disabilities are being held accountable for meeting high state standards.]

6. Functional Behavioral Assessments. The requirement for Functional Behavioral Assessments and Behavioral Intervention Plans are maintained in the discipline provisions

7. **Case-by-case determination.** A paragraph has been added to the discipline provisions, which states that school personnel can consider any unique circumstances on a case-by-case basis when determining whether to change the placement of a child with a disability who violates a school code of conduct. This is a good provision for parents to quote when they are having trouble proving that their child's behavior is a manifestation of the disability. It serves to remind the school personnel that common sense should prevail and all circumstances should be considered.

Thank you Madam Chair and good afternoon Senators. Thank you for continuing your hard work today and throughout this session, helping to provide a suitable education for all children. My name is Ginger Lewman and I represent the 16,000 identified children, their parents and the educators across Kansas who are supported by the Kansas Association for the Gifted, Talented, and Creative (KGTC).

I'm here today for one purpose: to let you know how extremely vital it is to continue your support of **gifted children** in Kansas under the protection of Special Education. Today I'd like to discuss exactly what Special Education protection for gifted children means to everyday Kansans like you and me. To do this, we'll need to have some common background.

Recently in Washington DC, education experts have been partnering with individuals who are knowledgeable about the needs of the United States *outside* of education. This discussion has led to the creation of the STEM (Science, Technology, Engineering and Mathematics) Education Caucus. The purpose of the continuing STEM Education Caucus is the understanding that our economy is driven by constant innovation and knowing that the basis of innovation lies in a dynamic, motivated and well-educated workforce equipped with STEM skills. In America, our changing needs require an understanding of scientific and mathematical principles, a working knowledge of computer hardware and software, and the problem solving skills developed by courses in STEM. All of these are necessary for most jobs. *The facts I'm about to share with you are taken from the Policy Exploration Meeting in Washington DC held October 15 and 16, 2004.*

September 11, 2001 has increased national and state security needs, but there continues to be a shortage of US citizens with the necessary skills to meet these needs. For example, 64,000 students in the US received undergraduate engineering degrees in 2003, but 1 MILLION were granted in China. Of the 64,000 US degrees, less than half were American born. Why is this important, you ask? To work in the National Security Agency (NSA), a vital part of Homeland Security, a person must be American-born. Currently, 60% or more US graduates in STEM areas are foreign-born, which means that these people cannot be employed by the NSA. Additionally, the NSA is the largest employer of people with mathematics PhDs in the world. If the US is not producing American-born scientists, technology experts, engineers, or mathematicians in the capacity that we need them, where is our future security? Where does that leave our economy in the future?

Where are the people coming from who are filling those jobs that are the most essential to the US economy? H-B1 visas are granted to non-US citizens who are already qualified in specialty occupations including math, computer science, engineering, or medicine. In 2003, the cap on the number of new H-1B visas was 195,000. In 2004, the number was only 65,000, a level that was reached on Feb 17, 2004. We have a pipeline *importing* talent to America when we should be *exporting* our talents. Right now, we are experiencing serious "brain drain" and unless we are able to fully nurture every one of our students to their absolute highest potential, this "brain drain" will continue to significantly worsen. We need to nurture and grow our own highly qualified work force

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that has that essential knowledge base and help them move into those highly desirable positions in National Security and other STEM areas.

Let's bring these issues even closer to home. The support of academic rigor for all students in all schools is essential to stop and reverse the economic decline of Kansas. Across our state, we are seeing corporations being sold to incoming companies, but do we have them competing to open shop here? In Wichita, we have finally seen Boeing taken over by Onyx. When ConAgra burned several years ago, did we see companies clamoring to come fill that hole left in their economy? In my hometown of Emporia, IBP was recently bought by Tyson, and in the last year, Newman Regional Hospital was attempting to bring in a new Orthopedic Surgeon. When both of these were happening, prospective employees visited my room to ask about the academic rigor of my gifted program, the school and the district. When choosing whether or not to re-locate to Kansas, companies aren't bringing laborers with them; they're bringing in the people working in the crucial STEM Education industries. Their children are bright with a deep need for academic rigor in classrooms. We must continue to allow the needs of every child in Kansas to be met with absolute certainty. This can only happen with the protection that special education provides for these special students.

Kansas schools are good, and they could be better. Kansas continues to be a model for other states in how gifted children's needs are protected within Special Education. Right now, the children who, in the future, will be able to fill these essential STEM positions and the children who will be able to stimulate the economy of Kansas are sitting in classrooms in your hometowns. Continuing the protection that Special Education affords children who have the greatest potential to fill our State and National economic and security needs is simply sound practice. Gifted students need specially-designed instruction just as any other student with an exceptionality deserves specially-designed instruction. Not one student in Kansas can be allowed to stagnate and falter. It is our duty as the guardians of education to be sure that *no child is left out*. Some have cited issues of paperwork or money. These issues can be resolved within the realm of Special Education protection. Please do not let yourself "throw the baby out with the bathwater."

In a moment, you'll be hearing from Kylie White, a student who has benefited from the protection of Special Education for 8 years. From her, you'll hearing just one personal account of what she has been allowed to learn and experience because her right to specially-designed instruction has had Special Education protection. Many students in Kansas can share similar stories that would never have happened without the understanding that gifted children need that protection of specially-designed instruction to meet their unique learning needs.

Thank you for all your hard work to ensure that all Kansas children receive a suitable education. I'll be happy to now answer any questions you may have.

2/21/05

Good afternoon Chairperson Shodorf and the Senate Education Committee. Thank you for the opportunity to appear before you today.

My name is Kylie White. I am a freshman at Emporia High School. I am here on behalf of continued gifted education in Kansas. Specifically, I am here to ask for the continued protection of gifted education as an "exceptionality" that mandates inclusion under special education.

I have been in special education since second grade, the year I was formally identified as being a gifted learner. This has afforded me many opportunities to excel, explore and work far beyond the teaching in the normal classroom.

As a third grader, my learning plan included auditing a high school art class, attending one block per week, and completing 75% of the assignments of the high school students enrolled in the class. I also was able to request advanced spelling, reading and math assignments at my level. The ability to have these requests honored lies in being protected under special education.

Third grade is when, during Resource Expanded Learning, I was introduced to Odyssey of the Mind team problem solving competition. I have been involved in Odyssey of the Mind a total of 6 years, working to solve problems related to performance, literature, art, and physics. I have traveled to World Finals three different years, competing in Ames, Iowa, Knoxville, Tennessee, and Washington D.C.

In fifth and sixth grade, due to an interest in foreign language not available during regular class activities, a high school student in her third and fourth year of French came to the Intermediate

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School and worked with me to explore the French Language. I am now a first year German Student nominated for an International Foreign Language Award.

In the year 2000, I was chosen the Kansas Nicholas Green Distinguished Student . Each year through the National Association of Gifted Children, one student is chosen in each state. The savings bond is tucked away for higher education. The essay I wrote and submitted is now a permanent part of the Congressional Record, as submitted by Senator Sam Brownback.

I have been assessed at a 12.9 reading level (senior year, ninth month) since sixth grade.

In seventh and eighth grade my Gifted Facilitator worked tirelessly to help my teachers compact subjects and pretest to allow more time in the Gifted Classroom. Here I was able to explore higher level reading assignments, SAT vocabulary, while very importantly, working with a teacher who has had much education on teaching the gifted, and with other students working at my level.

Under the Duke University Talent search, I took the SAT in seventh grade, and scored high enough to be a Duke Talent Scholar. I scored greater than 63% of graduating seniors. This allowed me to experience the test, the testing environment, and help map out a course of study in High School.

In eighth grade I combined interests in meteorology and photography as an advanced project out of the normal classroom. I spent time shadowing the Channel 13 meteorologist and was actually standing on the hill outside my school taking pictures of storm clouds with my teacher as the tornado sirens started to sound.

In the last year I have been exploring careers in Engineering. I was allowed to join an Introduction

to Technology class at semester that is usually a year long class, in order to make room in my high school schedule for four years of technology. I was also able to request to waive a sophomore PE credit to allow four full years of math, science, English and orchestra. Working in the gifted classroom during seminar periods this year has allowed time to explore Engineering and Schools of Engineering. Combining science and building technology, I am working with another gifted student designing models of DNA.

Protection as a special education student has allowed me to progress at a faster pace. I have skipped the math and science that most freshman take, and enrolled in sophomore classes this year. I am also taking Honors, AP and Accelerated classes, all weighted in my GPA. I have opportunity to dual enroll in classes during the same block, to progress more quickly through the curriculum.

Because gifted education is protected under special education I have been able to tap my potential for learning. I am not a child in danger of being left behind as far as proficiency. Please help me not to be a child left behind my potentiality.



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TO: Senate Education Committee

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

DATE: March 21, 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.

Except for the changes made by the House Education Committee, 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 requirements of state law may exceed those of the federal law.

The major areas affected by the federal 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 have a few technical changes that are needed in the bill which I have indicated as balloons on the pages attached to my testimony, and I have one major concern to bring to your attention regarding the language about transition services. If you will please turn to the attached sheets, I will explain the amendments I am proposing for your consideration.

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

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

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

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

21 (dd) "Homeless children" means "homeless children and youths" as
22 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
23 11434a.

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

27 Sec. 2. K.S.A. 72-963 is hereby amended to read as follows: 72-963.

X 28 The state board shall adopt and administer the state plan. The state board (a)
29 may amend the state plan as necessary. The state plan, and any amend-
30 ments thereto, shall be prepared in consultation with the state advisory
31 council for special education provided for in this act.

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

X 37 Sec. 3. K.S.A. 72-963a is hereby amended to read as follows: 72-
38 963a. The state board shall:

(c) The state board may apply to participate in any
pilot program authorized by the federal law and, if
approved, may participate in any such program.

39 (a) Establish procedures, which shall be utilized by each agency, to
40 allow parties to disputes involving any matter described in subsection

X 41 (b)(4) of K.S.A. 72-988, and amendments thereto, ~~or in K.S.A. 72-999~~
X 42 ~~section 18, and amendments thereto,~~ to resolve such disputes through a
43 mediation process or through due process hearings which meet the

1 are needed in order for the child to participate in such assessment ap
 2 propriate accommodations that are necessary to measure the academi
 3 achievement and functional performance of the child in on state and dis
 4 trict-wide assessments; and (B) if the IEP team determines that the chilc
 5 will not participate in shall take an alternate assessment on a particular
 6 state or district-wide assessment of student achievement or part of such
 7 an assessment, a statement of why that assessment is not appropriate for
 8 the child and how the child will be assessed the child cannot participate
 9 in the regular assessment and why the particular alternate assessment
 selected is appropriate for the child;

11 (6) (7) the projected date for the beginning of the services and mod-
 12 ifications described in provision (3) (4), and the anticipated frequency,
 13 location, and duration of those services and modifications;

14 (7) (A) Beginning at age 14, and updated annually, a statement of
 15 the transition service needs of the child under the applicable components
 16 of the child's IEP that focuses on the child's course of study, such as
 17 participation in advanced placement courses or a vocational education
 18 program; (B) beginning at age 16 or younger, if determined appropriate
 19 by the IEP team, a statement of needed transition services for the child,
 20 including, when appropriate, a statement of the interagency responsibil-
 21 ities or any needed linkages; and (C)

22 (8) beginning not later than with the first IEP to be in effect when
 23 the child is 16 and updated annually thereafter. (A) Appropriate meas-
 24 urable postsecondary goals based upon age appropriate transition assess-
 25 ments related to training, education, employment, and, where appropri-
 26 ate, independent living skills, and (B) the transition services, including
 27 appropriate courses of study, needed to assist the child in reaching the
 28 stated postsecondary goals; and (8) (A) beginning at age 14, and up-
 29 dated annually, a statement of the transition service needs of the
 30 child under the applicable components of the child's IEP that fo-
 31 cuses on the child's course of study, such as participation in ad-
 32 vanced-placement courses or a vocational education program; and
 33 (B) beginning at age 16, or younger, if determined appropriate by
 34 the IEP team, a statement of needed transition services for the
 35 child, including, when appropriate, a statement of the interagency
 36 responsibilities or any needed linkages; and

37 (9) beginning at least one year before the child reaches the age of
 38 majority under state law, a statement that the child has been informed of
 39 the child's rights, if any, that will transfer to the child on reaching the age
 40 of majority as provided in K.S.A. 72-989, and amendments thereto.

41 (8) a statement of: (A) How the child's progress toward the annual
 42 goals will be measured, and (B) how the child's parents will be regularly
 43 informed, by such means as periodic report cards, at least as often as

NEW Fed. law

Lines 22 to 28 are the new provisions adopted
 by Congress. Reinstate these new provisions,
 except change "16" to "15".

Lines 28 to 36 are the provision Congress
 repealed. These old provisions are not
 consistent with the new provisions.

old fed. law

* The State Board of Education strongly supports transition services, with transition planning beginning not later than a child's 15th birthday. There is a concern, however, whether the requirements under the former language meet or exceed the requirements under the new language. The amendments suggested above eliminate this concern.

1 the parents of exceptional children under the federal law and this act.
2 The ~~list~~ notice shall include a full explanation of the rights and be made
3 available in various languages and be written so as to be easily understand-
4 able by parents.

5 (e) A list of the rights available to the parents of exceptional children
6 shall be given to the parents, ~~at a minimum only one time each school~~
7 ~~year, except a copy also shall be given to the parents:~~ (A) Upon initial
8 referral or parental request for evaluation and upon reevaluation of the
9 child, (B) upon each notification of an individualized education program
10 meeting; (B) upon request of a parent; and (C) upon registration the initial
11 filing of a complaint under subsection (b)(4).

12 Sec. 16. K.S.A. 72-990 is hereby amended to read as follows: 72-990.
13 The notice required by subsection (b)(2) of K.S.A. 72-988, and amend-
14 ments thereto, shall include:

- 15 (a) A description of the action proposed or refused by the agency;
- 16 (b) an explanation of why the agency proposes or refuses to take the
17 action;
- 18 (c) a description of ~~any~~ other options that the agency or IEP team
19 considered and the reasons those options were rejected;
- 20 (d) a description of each evaluation procedure, ~~test assessment~~, rec-
21 ord, or report the agency used as a basis for the proposed or refused
22 action;
- 23 (e) a description of any other factors that are relevant to the agency's
24 proposal or refusal;
- 25 (f) a statement that the parents have protection under the procedural
26 safeguards of this act and, if the notice is not an initial referral for eval-
27 uation, the means by which a copy of the procedural safeguards can be
28 obtained; and
- 29 (g) sources for parents to contact to obtain assistance in understand-
30 ing the provisions of the federal law and this act.

31 New Sec. 17. (a) School personnel may order a change in the place-
32 ment of a child with a disability:

- 33 (1) To an appropriate interim alternative educational setting or other
34 setting, or the short-term suspension of the child;
- 35 (2) to an appropriate interim alternative educational setting for not
36 more than 45 school days if: (A) The child carries or possesses a weapon
37 to, or at, school, on school premises, or to, or at, a school function under
38 the jurisdiction of ~~the~~ agency; (B) the child knowingly possesses or uses an
39 illegal drugs or sells or solicits the sale of a controlled substance while at an
40 school, on school premises, or at a school function under the jurisdiction
41 of ~~the~~ agency; or (C) the child has inflicted serious bodily injury upon
42 another person while at school, on school premises, or at a school function
43 under the jurisdiction of ~~the~~ agency; or an