

MINUTES

SPECIAL EDUCATION FUNDING TASK FORCE

August 8, 2008
Room 545-N—Statehouse

Members Present

Dr. Alexa Posny, Chairperson, Commissioner of Education
Bert Moore, Vice-Chairperson, West Elk USD 282
Representative Clay Aurand
Representative Gene Rardin
Mike Lewis, High Plains Educational Cooperative
Dr. Tim Wurtz, Capital City School
Lori Hisle, Blue Valley USD 229
Mary Anne Trickle, Salina USD 305
Glennys Doane, Waconda USD 272
Dr. Rob Balsters, Seaman USD 345
Dr. Neil Guthrie, Wichita USD 259
Dr. Wade Anderson, Kansas KNEA

Staff Present

Dale Dennis, Deputy Commissioner of Education
Sharon Wenger, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Theresa Kiernan, Office of the Revisor of Statutes
Matt Sterling, Intern, Office of the Revisor of Statutes Office
Jan Lunn, Committee Secretary

Dr. Alexa Posny introduced herself and brought the meeting to order at approximately 9:35 a.m. She indicated the premise behind special education is to provide free appropriate public education to children. Dr. Posny asked those attending to introduce themselves and to provide information relative to his/her role or focus as appointees on this special task force. The first order of business was to select a chairperson and vice-chairperson. *On a motion by Dr. Balsters and seconded by Mr. Lewis, Dr. Alexa Posny was selected to serve as Chairperson. The motion carried.* Dr. Posny assumed the Chairperson position and briefly commented on the purpose of the Task Force. *Dr. Neil Guthrie moved Bert Moore serve as Vice-Chairperson of the Special Education Funding Task Force; the motion was seconded by Dr. Balsters. The motion carried.*

Dr. Posny called upon Theresa Kiernan, Office of the Revisor of Statutes, to review the

charge of the Task Force and the corresponding legislation that resulted in the creation of the Special Education Funding Task Force.

Ms. Kiernan distributed a memorandum (Attachment 1), which described legislation during the 2007 and 2008 sessions. Specifically, reference was made to SB 531, which provided for the Special Education Funding Task Force, and the second provision in that bill created a new category of special education funding called Medicaid replacement aid (which is similar to catastrophic aid). The State Board of Education will designate up to \$9,000,000 as Medicaid replacement state aid from monies appropriated as special education services state aid. Districts providing special education and related services to exceptional children for which the district receives Medicaid payments, can apply for Medicaid replacement state aid. Unless changed by the Legislature, this new category of state aid is applicable only in school years 2007-2008, 2008-2009, and 2009-2010. Other legislative proposals not enacted were discussed by Ms. Kiernan for the purpose of providing history.

Ms. Kiernan reviewed the Task Force's composition and operating guidelines as follows:

- The Task Force is composed of 12 members, one of which is the Commissioner of Education, who is a non-voting member;
- The Task Force shall select a Chairperson and Vice-Chairperson;
- The Task Force shall meet at any time and place within Kansas at the call of the Chairperson;
- A quorum is six voting members;
- All actions of the Task Force shall be by motion adopted by voting members present (when there is a quorum);
- The Legislative Coordinating Council may provide for professional services as requested by the Task Force;
- Staff from Legislative Research Department, Office of the Revisor of Statutes, and Legislative Administrative Services shall provide assistance to the Task Force. Upon request, the State Board of Education shall provide consultants and assistance; the State Board and school districts will provide any documentation and information requested by the Task Force; and
- The Task Force ceases to exist on June 30, 2011.

Duties of the Task Force include:

- Study and recommend changes in the existing formulas for funding special education and related services including (but not limited to) Medicaid replacement state aid;
- Conduct hearings, receive and consider suggestions from teachers, parents, the general public, Department of Education, State Board of Education, and other governmental officers and agencies for funding special education and related services; and

- Develop and submit reports to the Legislature regarding the Task Force's work and recommendations for legislative changes on or before January 14 of each year.

Dr. Posny referenced a paper she authored entitled "Special Education Funding" ([Attachment 2](#)). This information was previously sent to Task Force members in preparation for the first meeting of the Special Education Funding Task Force. It provides education and insight into various special education funding formulas, components of special education spending, total spending on students with disabilities, expenditures on assessment, evaluation and IEP activities, and the benefits and caveats of the major funding formulas.

Dr. Posny introduced Dr. Jay Chambers, Senior Research Fellow and Managing Director, Education and Public Sector Finance Business Development Group, American Institutes for Research, and Director, Special Education Expenditure Project. Dr. Chambers is an expert in special education funding and led the Center for Special Education Finance (CSEF) for the U.S. Department of Education in providing national as well as state research. The January 2000 Kansas Special Education Expenditure Project (SEEP) report previously submitted by Dr. Chambers to the Kansas State Department of Education was distributed to those attending for informational purposes ([Attachment 3](#)). The SEEP report compares Kansas to national averages in special education spending, use of funds, and relationships to general education.

Dr. Chambers began by discussing his background which has been in school finance for 35 years of his career concentrating on special education issues during the early 1990's. In 2001, he was asked to serve on the President's Commission for Excellence in Special Education. Dr. Chambers indicated one of the major themes of his presentation is for individuals to see special education in the larger context within general education. In addition, notable presentation points included state financing systems for special education, patterns of special education spending, and adequacy related to special education funding. Dr. Chambers' presentation, "National and State Overview of Special Education Funding" is attached to these minutes, and therefore becomes part of this record ([Attachment 4](#)).

The presentation contained discussion related to national special education policy issues such as rising enrollments, increasing costs (driven by enrollments), identifying and supporting disabled children, general education encroachment, blended services/funds, pre-referral activities, accountability, and full federal funding. Dr. Chambers outlined federal versus state and local roles; he detailed various funding formulas including pupil weights, census-based, resource-based, percentage reimbursement, and variable block grants. Considerable discussion was heard regarding the census-based formula in which a fixed amount is applied to all students. The census-based formula may occasionally be adjusted for severity or poverty, and is not tied to special education counts, disability types, category of service or other student characteristics. Dr. Chambers discussed New Mexico's move towards a census-based formula focusing on flexibility, Response to Intervention (RTI) and pre-referral activities. Dr. Posny questioned whether there had been consideration for mecca areas with heavy concentrations of high-cost needs children in the New Mexico proposal. Dr. Chambers responded that utilization of contingency funds accompanied by effective risk management is integral in developing funding proposals to deal with these high concentration areas.

Dr. Chambers discussed with Task Force members the SEEP Study in which Kansas participated. In the national sample (1999-2000) 41 states were included with 330 school districts represented and a sample of 10,000 children, \$12,474 was spent to educate the average student with disabilities. That amount includes \$4,394 of general education expenditure and \$8,080 in special education expenditure. In Kansas, \$11,213 was spent to educate the average student with disabilities, \$4,120 of general education expenditure was spent and \$7,093 of special education

dollars was spent. He explained that while Kansas' raw numbers are lower, they are lower due to the difference in average costs, such as in the labor market. When the data is adjusted for geographic cost differences, Kansas' total expenditure for an average student with disabilities becomes \$12,543. Dr. Chambers indicated that in looking at national versus state ratios, national average spending is 1.9 times more for a special education child than a general education child while Kansas' average is 1.89. Further discussion was heard related to the composition of total spending, the uses of special education dollars, expenditure by disability, and spending by placement.

Dr. Chambers indicated support for the use of contingency funds, and he reviewed the criteria for evaluating funding formulas. He encouraged the Task Force to consider moving in the direction of providing as much flexibility at the local level as possible. In addition, he suggested the group think beyond measurement of skills to include other elements such as work ethic, self esteem, self efficacy and the incorporation of identified goals in an integrated fashion. Dr. Chambers concluded his presentation by noting that in virtually all states, a clear definition of "adequacy" in special education is missing, and that clarity could ensure appropriate financial support, cost control, and an integrated special education/general education approach. He indicated the importance of creating a funding formula that is understandable, one that is equitable and reflects needs of children, one that is adequate to achieve the goal(s), one that is predictable, one that is flexible, one that is identification and placement neutral, one that contains a reasonable reporting burden, one that provides fiscal accountability, one that is cost-based, one that contains cost controls, one that includes outcome accountability, and one that is linked and integrated to general education.

Dr. Posny questioned whether there were any studies being proposed (because of reauthorization of Individuals with Disabilities Education Act (IDEA) evaluating disincentives to restrictive placement and RTI. Dr. Chambers indicated there are funding initiatives for various issues, and he encouraged searching the website for more detail.

Dr. Balsters indicated he sensed Dr. Chambers expressed more enthusiasm for a census-based funding formula, and he asked Dr. Chambers to expound on his reasons. Dr. Chambers stated that indeed, he did seem inclined to favor the census-based approach because it is difficult to find an objective measure of need in other funding formulas. This method attempts to provide a more objective measurement of severity or need ensuring the typical incidence of special needs children are met.

Dr. Anderson asked if Dr. Chambers could provide any examples of how adjustments have been made in the census-based formula either by region or size of district. Dr. Chambers provided an example in California where many districts belong to special education planning districts similar to cooperatives in Kansas.

Dr. Guthrie asked whether outcomes for special education students were factored into the New Mexico project. Dr. Chambers indicated there was general discussion of performance standards to meet expectations; however, detail was not developed.

Mr. Lewis asked how New Mexico designed their model to ensure equity across all school districts. Dr. Chambers stated this was a thoughtful and deliberate process. There were six panels developed (two from urban areas, two suburban, and two rural) composed of nominated individuals/experts who established general goals and, subsequently, designed programs for different demographic populations as well as resources to meet that population. "What if" scenarios were created and applied to alter the demographics; resources/programs were then revised to match the changing demographics and to meet identified goals. The data was analyzed to create the dollar resources required based on the assumptions.

Mr. Moore asked what steps Dr. Chambers would recommend the Task Force take in

developing its recommendations. Dr. Chambers encouraged careful review of the general education formula and find something that will fit well to move in the direction of integration. Consider opportunities for block granting rather than categorical funding and think about providing the money but establishing the accountability, provide the money to the districts with flexibility while holding the district accountable for results. Ask questions, hold hearings, look at data (*i.e.*, identification rates, changes, confidence in disabilities) variations among districts, and understand what currently is being spent.

Dr. Guthrie asked how staffing ratios are considered when building a system of accountability. Dr. Chambers indicated that in his analyses, there were two sources: what is happening in the nation and state and the professional judgment factor. Currently, limited sets of outcomes exist, and measurement can be difficult, particularly with limited data available.

Dr. Guthrie asked for additional information regarding establishing staffing ratios using a census –based formula when special education levels and needs are so varied especially when multiple sub-groups exist. Dr. Chambers responded that the illustration Dr. Guthrie provided was a good reason why a census-based formula works: school districts establish local needs and accountability. Dr. Posny added that other factors (*i.e.*, poverty) must be considered and weighted appropriately.

Dr. Posny began her presentation (Attachment 5) by indicating her subject matter is based on the premise that by working together we can improve the achievement of students with disabilities. The presentation included a 30-year history of critical changes in education including societal, schools, students, laws, regulations, and policies.

A significant example of societal change includes the diagnosis of children age 6 through 21 with autism receiving services: prior to 1993, there were under 20,000 being served; in 2004, more than 166,000. Strides made in identification and early diagnosis have contributed to this increase. In terms of a severely autistic high-school age child, Dr. Posny indicated that can mean up to ten different professionals interacting with that child. Depending on the severity of the need, one to more than one full-time equivalent employee may be required.

System changes included labeling special needs children and changes in placement in certain settings. These have included institutionalization in the 1960's for "patients," deinstitutionalization in the 1970's; "mentally retarded," and community-based placement in the 1980's for "handicapped children," integration in the 1990's for "persons with disabilities," and finally, inclusion in the 2000's for "children and families."

Schools have changed as well. In the 1990's there was one special education teacher for many children of varied ages in the classroom. The model being used in Kansas now is often termed as one utilizing an "interrelated teacher." This is a special education teacher interacting not only with the children in the classroom, but multiple professionals and general education professionals. Dr. Posny discussed a significant graphic that assisted Task Force members in visualization of the many individuals with whom a special education teacher must engage and interact.

Dr. Posny discussed how students have changed and various laws and regulations have changed since 1965. The Individuals with Disabilities Education Act (IDEA) has been reauthorized five times with the fourth reauthorization focusing on high expectations, access to general education, participation in assessments, alignment with school improvement and focus on teaching and learning. The intention of IDEA was to effectively meet the needs of identified students, special education should not be a separate place or system, every child should have a free appropriate public education (FAPE), systems providing effective interventions, and the federal government

monitoring and enforcing those most closely related to improving children's results. Reading performance data was examined comparing 2002/2003 to 2004/2005.

Additional points in Dr. Posny's presentation included:

- Many students are identified as special education children who are not;
- Federal funding of special education covers approximately 12-18 percent of the total cost and has been decreasing since 2004;
- In Kansas, the state special education funding formula is resource-based which means allocation of special education resources is based on teachers or classroom units;
- Funding is defined (through IDEA) as "an effective educational system must establish placement-neutral funding formulas and cost-effective strategies for meeting the needs of children with disabilities";
- Various task forces in the past have looked at state funding. One key issue requiring concentration is the child's transition from school to work as part of the state plan. A major outcome should be "what is his/her life like after school." The significant key to this positive outcome is integration and linking to general education;
- Eligibility requirements for learning disabled children have changed in Kansas. In the past, an IQ score was used to identify learning disabled children and subsequently, the IQ score was compared to the student's performance in the classroom. In 1994, Kansas turned to a Response to Intervention Model. That assumes multiple indicators are needed, promotes multiple assessments and interventions as soon as possible, and focuses on educational need and evidence-based interventions; and
- Currently, Kansas uses a Multi/Tier System of Supports (MTSS) model as a result of changes in thinking related to identification, placement, and services provided. The design is intense, moving toward the thought that no matter what the child needs in terms of resources, it will be provided. The system provides interventions whenever needed, and it includes multiple or tiered levels of support and intervention. The System contains a continuum of research-based interventions and requires ongoing monitoring for effectiveness.

Dr. Posny's closing comments indicated that a core curriculum must be provided for all students; if a child needs further assistance, it will be provided; learning will be carefully monitored, with opportunity to demonstrate learning; teachers will clarify standards in assessing quality of work; and students will become the beneficiaries of educators who promise to work together collaboratively to use practices that have positive impact on achievement. To achieve these goals, a funding formula must be designed that will provide flexibility and an integrated environment for special education educators to work with other teachers, professionals, and support staff that creates a powerful team-focus on positive outcomes for all students.

Discussion was heard regarding various funding formulas, the conflict created with funding on a per-pupil basis for general education and resource-based for special education, a funding

formula built on the MTSS model with funding allocated to tiers, how funding changed when MTSS was implemented with the onus of responsibility placed on the general educator.

Dale Dennis was recognized to present information on estimated special education excess costs for fiscal year 2009. Mr. Dennis discussed with those attending the slides he prepared that provides a step-by-step graphic of how special education excess costs are projected (Attachment 6). Mr. Dennis emphasized this presentation includes only special education costs.

For 2007, actual expenditures total \$678,044,218, added to that total is a percentage increase for teachers salaries and additional teachers for total FY 2008 expenditures of \$723,742,331. Mr. Dennis clarified that the estimated salary increase for teachers, and additional teachers needed is based on history, how many teachers are graduating from university, and how many teachers are going back for licenses to teach special education. In addition, paraprofessionals are included in the estimated additional teachers needed. The law defines special education teacher as 1.0 FTE for a licensed teacher and 0.4 FTE for a paraprofessional.

Now that the FY 2008 base expense threshold is established, the same methodology (teacher salary increase and additional teachers required) is estimated for FY 2009 which lends a base projected total budget expenditure figure of \$761,422,913. From the \$761,422,913 deductions required by law, such as Medicaid reimbursement, SRS contribution, and federal aid are made leaving an excess cost for FY 2009 of \$464,751,581. Estimated FY 2009 excess cost funding is anticipated to be at 92 percent resulting in an estimate of \$427,571,455 for special education excess costs (which equates to an estimated amount of salary per special education teacher at \$29,600 for 12,130 teachers). Considerable discussion was heard related to the hours spent by school districts in order to attempt to capture all the available dollars.

The concluding comments heard indicated that in reality Medicaid money will probably disappear, and as the federal deficit increases, the effect on states, their services and programs, will be impacted negatively.

In terms of "next steps" and the direction of the Task Force, it was decided to meet monthly. Various members of the group indicated the following points were those they would like to review and evaluate:

- Understand the general education funding formula;
- Set goals based on the "big picture" and what special education funding should accomplish;
- Ask local experts/people their opinions;
- Hear opinions from different districts;
- Review data such as identification rates of students with disabilities (by category) and districts;
- Review catastrophic aid;
- Evaluate how Iowa funds its approach to multi-tiered services;
- Compare a census-based system with catastrophic add-ons to our current system to see how it would differ by district;

- Explore how Iowa has succeeded in its approach, especially related to the elimination/reduction of due process hearings in that state;
- Examine risk and whether it can be evaluated in a blended way;
- Review a typical population, what staffing ratios might be used and what staffing ratios might be used for a mildly disabled child;
- Review salary compensation for special education teachers and whether ways to incentivize the profession are possible; and
- Evaluate a census-based funding formula as opposed to current resource-based funding formula and relate to the Office of Special Education and Rehabilitative Services.

Dr. Posny indicated staff will send an e-mail to Task Force members regarding the September 2008 meeting date and invite Task Force members to e-mail her with any concerns or issues they might like to study or review.

The meeting was adjourned at 3:15 p.m.

Prepared by Jan Lunn
Edited by Sharon Wenger

Approved by Task Force on:

September 22, 2008
(Date)