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Testimony before the
Senate Education Committee
on

SB 44

by
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Mr. Chairman and Members of the Committee,

I am before you today regarding **SB 44**, which would carve dyslexia out of the state and federal special education law and create a different procedure for services for dyslexic students which would be contrary to federal and state special education law. Accordingly, we must oppose the bill.

Currently, special education is governed primarily by federal law. State law mirrors federal law in many respects and adds to the federal law in certain aspects which do not conflict with federal law. For example, state law provides that gifted students, as well as the disabled students covered by federal law, must be provided special education services.

However, **SB 44** goes well beyond supplementing federal law and, with respect to the specific disability of dyslexia, would appear to seek to supplant federal law. Section 1(a) provides that school districts would have to begin implementing "best practices" for any students diagnosed as dyslexic by a doctor without any evaluation by the school district. In addition, Section 1(a) of the bill states that the term "dyslexia" must be used in all individualized education programs (IEPs) and Section 504 accommodation plans.

Under both the Individuals with Disabilities in Education Act ("IDEA") and Section 504 of the Rehabilitation Act ("Section 504"), students do not automatically begin receiving services simply upon the basis of a medical doctor's note. Both the IDEA and Section 504 require evaluations of students before identifying them as either special education or Section 504 eligible. The procedure outlined in the bill would be a complete end run around procedures required by both the IDEA and Section 504.

Not only do the IDEA and Section 504 require evaluations of students prior to determining eligibility, such determinations are to be made as the result of a team decision. A doctor's note or diagnosis alone is not sufficient to determine eligibility. Both laws expressly provide for the involvement of the parents and anyone the parents wish to bring with them to the meetings. This is extremely important as the parents know their child best. However, both laws also recognize that educators are the experts regarding educational interventions.

Perhaps even more importantly, this bill seems to assume that dyslexic students are not currently receiving services. Such an assumption would be incorrect. Currently, dyslexia is one of many disorders which are classified under the broad umbrella of learning disorder ("LD") in federal and state law. It is neither necessary nor advisable to begin breaking the broader categories of disabilities under the federal and state law down to a list of individual disabilities, all of which must be handled differently. To do so, would serve only to place more burdens in terms of funding, staff, and legal compliance on school districts whose budgets and staff are already stretched thin.

In many cases, dyslexic students may now be receiving additional services even without being formally identified as eligible for special education or Section 504 accommodations. Under the Multi-Tier System of Supports (MTSS) model for which the State Board of Education is seeking state-wide implementation, schools begin interventions in the regular education setting as soon as they have reason to believe a student is struggling.

Section 1(b)(1) of the bill would require school districts to pull all dyslexic students out of the regular education classroom for small group instruction utilizing intensive multisensory phonetic methods for 90 minutes each day. Not only would this be contrary to the Least Restrictive Environment requirements of both IDEA and Section 504, it would place legislators – not educators and parents – in the role of determining the best educational methods for providing services to Kansas students. Students learn differently, even students with dyslexia learn differently. This one size fits all approach will not provide all dyslexic students with what they need. We believe that educators, in conjunction with the parents, should determine the best approach for each dyslexic student.

Likewise, both IDEA and Section 504 already impose a "child find" obligation on all school districts. This requires school districts to seek out, evaluate, and offer services to all exceptional children residing within the district. This child find obligation extends to dyslexic children the same as it does to children with other exceptionalities. Thus, section 1(b) (2) would be redundant.

Section 1(b) (3) of the bill would require teachers to complete certain teacher preparation courses that include training programs specifically designed for students with dyslexia. It is our belief that this section is not necessary. We believe the State Department of Education already requires specific reading coursework in order to obtain a teaching license.

Finally, with regard to section 3 of the bill, we believe this would serve only to place more financial burden on school districts. IDEA and Section 504 both provide due process rights if the parents do not agree with the IEP or the Section 504 plan, although case law interpreting the IDEA makes it clear that parents do not have the right to dictate methodology. The IDEA recognizes decisions regarding appropriate methodology are best left to the educators.

For all of the foregoing reasons, we must object to **SB 44** and request that this bill not be approved by the committee.

Thank you for the opportunity to speak with you today and share our position.