

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:40 p.m. on March 22, 2006, in Room 123-S of the Capitol.

Committee members absent: Pat Apple – Excused

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

Conferees appearing before the committee: Representative Sue Storm
Mark Tallman, Kansas Association of School Boards
Terry Forsyth, KNEA
Dr. Sue Ann Kline, Autism Asperger Resource Center
Lauren Shapiro, parent from Emporia
Gwain January, father of Richard January
Connie Zienkewicz, Families Together, Inc.
Leia Holley, parent from Bonner Springs
Jennifer Schwartz, parent from Lawrence
Barbara Bishop, The Arc of Douglas County
Jane Rhys, Kansas Council on Developmental Disabilities
Michael Donnelly, Disability Rights Center of Kansas
Jane Adams, Keys for Networking, Inc.
Becky Litscher, student at Highland Park High School
Colin Olenick, Overland Park high school graduate

HB 2712–Special Education for Exceptional Children Act

Theresa Kiernan, Revisor of Statutes Office, noted that **HB 2712** was introduced at the request of Representative Sue Storm. She explained that the bill amends a provision within the special education law to make changes in a child's Individual Education Program (IEP). It is intended to clarify that, after the annual meeting for the school year, the parent or guardian may agree to develop a written document amending or modifying the child's current IEP without convening an IEP meeting, even in the cases of substantial changes in placement or material change in services. It provides that the parent's consent to the revised IEP may be by telephone, if it is documented and that documentation is signed by an IEP team member, or it may be provided by FAX or e-mail. It provides that, at the time of the consideration of an amendment or modification to the IEP, the parent shall be informed of the parent's right to an IEP team meeting.

Representative Sue Storm testified in support of **HB 2712**, noting that it would be one more step in bringing Kansas into line with the federal IDEA guidelines. She explained that the bill would change the current law by providing that it is unnecessary to convene a full IEP meeting to make a substantial change in the student's placement or a material change in services. She emphasized that agreement of the parent to the changes in the IEP would still be required. She noted that a number of school districts have believed that they were required to have an IEP meeting or at least a face-to-face meeting between teacher and parent any time a change was made to the IEP. The meetings require a tremendous amount of time, and teachers must leave someone else to cover their class. She pointed out that teachers need more time with students rather than meeting and doing paperwork. (Attachment 1)

Mark Tallman, Kansas Association of School Boards, testified in support of **HB 2712**. He stated that the bill was a simple, common-sense proposal that could make a small but meaningful difference in the time, paperwork, and cost associated with special education. He noted that it would only apply to circumstances wherein all parties agree to make changes in the IEP without a meeting of team. (Attachment 2)

Terry Forsyth, KNEA, testified in support of **HB 2712**. He stated that he supported the change in the IEP process as long as the process is one that keeps parents and educators involved in the IEP and those educators

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have had the opportunity for a rich and meaningful discussion with parents, thereby keeping the integrity of the IEP process in place as required by federal law. (Attachment 3)

Dr. Sue Ann Kline, Autism Asperger Resource Center, testified in opposition to **SB 2712**. She contended that the bill limited the rights of parents and advocacy groups. In her opinion, the bill did not adhere to the spirit of the law in which parents are encouraged to be active, responsible members of their child's IEP team. She commented that input from every member of the IEP team was as important as the interaction of a surgical team. She emphasized that whole team involvement in the IEP establishes a basis for accountability and quality control, and parental involvement has been found to have a long-term effect on their children's school performance. (Attachment 4)

Lauren Shapiro, a parent from Emporia, testified in opposition to **HB 2712**. She stated that her main objection to the bill related to the wording in Section 1 (4) (A) on page two of the bill. She went on to discuss the reasons that she believes that the federal law on which state law is based does not allow for substantial modifications without an IEP meeting, that the bill defeats the purpose of the IEP team, that administrators may take advantage of parents by encouraging them to agree to a decrease in services, and that the bill was not needed in order to give parents this opportunity to make minor changes in the IEP. (Attachment 5)

Gwain January testified in opposition to **HB 2712**. After his son, Richard, stood in support of all conferees in opposition to the bill, Mr. January noted that he had been an advocate for special education children for 16 years. In his opinion, changing any services through a phone conversation or a short conversation in the hall is not the correct manner to handle IEP changes. He explained that his twin boys have had IEPs since they were in preschool, and he has seen nothing but success in a parent's involvement in IEP meetings. As to the concern about the amount of time teachers are pulled out of their classrooms for IEP meetings, he suggested that the meetings could be held in the evening hours. In his opinion, the bill would single out children in special education, and it would be a step backward in the No Child Left Behind Act. In conclusion, he stated, "Don't make us as parents pay for what administrators feel is taking too much time away from classrooms. Each child's education is just as important as the others."

Connie Zienkewicz, Families Together, Inc., testified in opposition to **HB 2712**. She noted that, under current law, minor IEP changes can be made. She reasoned that a "substantial change in placement and material change in services" was by its own statement, "substantial" and "material." She urged the Committee to not allow IEPs to be modified without the time and attention due them, especially in matters of significance. (Attachment 6)

Leia Holley testified in opposition to **HB 2712** as a parent of two teenagers, an educational advocate, and a former high school teacher. She explained that her youngest son, now 13 years old, had overcome obstacles which were caused by miscommunication and misinterpretation of information by team members. She noted that, had the bill been in effect eight years ago, her son's team would not have been forced to step back and rebuild a team around a first grader who has autism. She emphasized that there is a need for more meetings for students to prevent misinterpretation of information. (Attachment 7)

Jennifer Schwartz, a parent from Lawrence whose daughter receives special education, testified in opposition to **HB 2712**. In her experience, the cornerstone to special education is the support and services of the IEP team. Her concern was that, without the IEP meetings, parents will not have the opportunity to learn about the educational system available to support their child. In addition, she feels that the bill could potentially take away important rights of the students that qualify for special education in Kansas. (Attachment 8)

Barbara Bishop, Executive Director of The Arc of Douglas County, testified in opposition to **HB 2712**. She noted that no one person knows everything needed to help a student with a disability find success. When an IEP is written, all members of the team take part, each providing important information and ideas to make a successful plan. She contended that the proposed changes in the bill made it too easy for students with disabilities to be removed from classes or environments that they share with their non-disabled peers. She commented that paperwork is the bane of modern existence; however, it has an important function when tied to the education process. (Attachment 9)

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Kim Strunk, a parent of an IEP student, stood in opposition of **HB 2712**, noting that she chose not to testify due to the large number of conferees.

Jane Rhys, Kansas Council on Developmental Disabilities, testified in opposition to **HB 2712**. Her main concern related to the change in current law which would allow an IEP to be implemented by telephone without a substantial number of IEP team members present. She contended that this type of change could result in an unformed decision that could dramatically change a child's life. She emphasized that parents must be involved in the children's education, especially if their child has a disability. In addition, she contended that the bill would reduce the school's staff's rights and responsibilities to document the need for a change and to explain the proposed change. As to the burden of paperwork placed on special education teachers, she pointed out that, if one goes into the field of education, one can expect a great deal of paperwork. (Attachment 10)

Michael Donnelly, Disability Rights Center of Kansas, testified in opposition to **HB 2712**. He expressed concern that the bill allowed substantial and material changes to be made by telephone, e-mail, or FAX, which would eliminate the requirement for a parent's signature indicating agreement with a change to the IEP. He noted that a substantial change in a child's placement could have a negative effect upon the provision of services in a student's least restrictive environment, and any material change in services could have a significant impact on a child's right to receive a free and appropriate public education. He pointed out that federal IDEA states that placement decisions are to be made by a group, and the least restrictive environment must assure that the parent is a member of the group. The long-standing interpretation of this IDEA provision is that the IEP team is the "group" that makes placement decisions. Therefore, he could not agree with the proponents of the bill that two people conversing by telephone, FAX, or e-mail complies with the IDEA "group" requirement. He contended that the bill made it far too easy to reduce services or move a student to a more restrictive educational setting, and there was a potential for abuse of the informal decision making process. (Attachment 11)

Jane Adams, Keys for Networking, Inc., testified in opposition to **HB 2712**. In her opinion, the bill undermines efforts to foster meaningful parent involvement in support of learning, which is a mandate for the No Child Left Behind Act. She noted that educational research indicates that students have better grades, stay in school longer, and have better social skills when their parents are involved in supporting their education. Noting that relationships between parents and teachers on IEP teams are fragile to begin with, she maintained that the bill would significantly undermine efforts to engage educators and parents in trusting, respectful relationships. In conclusion, she emphasized that planning with the IEP team and deciding what to try is the core of the delivery of special education services. (Attachment 12)

Becky Litscher, a deaf student from Highland Park High School in Topeka, testified in opposition to **HB 2712** with the assistance of an interpreter. She emphasized that eliminating the need for team meetings would take away the rights of the IEP student. She contended that she has the right to discuss her education goals and dreams; therefore, the IEP process should be left alone. (Attachment 13)

Colin Olenick, a special education student who graduated from Shawnee Mission East High School, testified in opposition to **HB 2712**. He contended that the bill would remove a student's right to be heard by the entire IEP team, and it would make it more difficult for significant changes to occur. He noted that his successful inclusion in the mainstream of the school occurred because he was listened to as a self-advocate and the IEP process required the school to respond to his needs. He commented that the process helped him learn how to be responsible. He argued that it is not only cheaper but better for someone to spend an hour planning a student's education than spending countless hours and dollars doing it when they are an adult. He suggested that, instead of passing the bill, Congress should be asked to fully fund IDEA and special education. (Attachment 14)

Senator Vratil called Mr. Donnelly's attention to a document he received in his office which had Mr. Donnelly's name at the bottom as a representative of Disability Rights Center of Kansas. He said, "My concern as I read this is, it has a statement at the top that says, 'This bill would remove the rights of parents and school staff to convene IEP team meetings when making a material change in services or substantial change in placement in a student's IEP. That right would be eliminated.' Is that true?" Mr. Donnelly

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answered, "The right to an automatic IEP." Senator Vratil responded, "That's not what it says. Is the statement that I just read true?" Mr. Donnelly said, "I don't have it in front of me. If the wording isn't exactly correct, the intent is that the right to an automatic IEP would be removed." Senator Vratil commented, "That's not what it says, and this piece of paper misrepresents the truth, and I encourage people to get out accurate information concerning proposed legislation, but I very much object to misleading and misinforming my constituents."

Written testimony in opposition to **HB 2712** was submitted by the following: Brenda Eddy, Kansas Youth Empowerment Academy (Attachment 15); Tonya Dorf, Kansas Association of Centers for Independent Living (Attachment 16); Kathy Lobb, Self-Advocate Coalition of Kansas (Attachment 17); Josie Torrez, Statewide Independent Living Council of Kansas (Attachment 18); Karen Jones, Topeka Independent Living Resource Center (Attachment 19); Patricia Haas, a parent of a child with an IEP and a former teacher (Attachment 20); Jolene and Jared Rader, parents of a child with an IEP (Attachment 21); Kim Peach, a parent of a two children with ADHD (Attachment 22); and Maria Martinez, a parent of a child who currently has an IEP (Attachment 23).

There being no further time, the hearing on **HB 2712** was closed.

Senator Schodorf called the Committee's attention to the minutes of the March 9 and 13 meetings.

Senator Teichman moved to approve the minutes of the March 9 and 13 meetings, seconded by Senator Pine. The motion carried.

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

There were no further meetings scheduled.