

Approved: 3/22/94
Date

MINUTES OF THE SENATE COMMITTEE ON EDUCATION

The meeting was called to order by Chairperson Dave Kerr at 1:00 p.m. on March 17, 1994 in Room 123-S of the Capitol.

All members were present except: Senator Lana Oleen (Excused)

Committee staff present: Ben Barrett, Legislative Research Department
Avis Swartzman, Revisor of Statutes
LaVonne Mumert, Committee Secretary

Conferees appearing before the committee: None

Others attending: See attached list

Chairman Kerr announced that the Subcommittee on Inclusion would report on its activities. Senator Frahm, Chair of the Subcommittee, explained the concern that if the action taken by the Senate Education Committee is to send a letter to the State Board of Education regarding the policy on inclusion, it will be the next legislative session before concerns and issues can be resolved. The Subcommittee's recommendation is that their list of questions concerning the policy be reviewed by the full Committee at today's meeting and that, sometime within the next week or two, a select panel (including members of the State Board and representatives of stakeholder organizations) provide input to the full Committee regarding the list of questions. Subsequent to this meeting, communication to the State Board would be developed for specific time frame identification and changes. Senator Downey noted that the Subcommittee met with a number of representatives of groups and organizations, and she reviewed the list of questions developed by the Subcommittee (Attachment No. 1). Senator Downey said that the questions are intended to target and identify some areas that are felt to be unclear in the inclusion policy. During discussion, Senator Frahm noted that some districts are not receiving the same message as others. She said that the issue of teacher preparation is a concern, and Senator Downey suggested including a question relating to how current pre-service training is addressing the preparation of teachers for inclusive classrooms. It was the consensus of the Committee that the Subcommittee's recommendation to schedule a panel of experts should be adopted.

The Committee was provided with a copy of a January 7, 1991 memorandum from the State Department of Education regarding Policy Clarification: Least Restrictive Environment" (Attachment No. 2). The Committee was advised that a booklet entitled "Policy Considerations on Outcomes-Based Accreditation for Students Receiving Special Education Services" is available from the Department of Education.

HB 2768 - School districts, pupil suspensions, expulsions and permanent exclusions from school

Written testimony opposing the bill was received from the American Civil Liberties Union (Attachment No. 3).

Senator Langworthy made a motion to amend HB 2768 by deleting the phrase beginning with the word "when" on line 23, page 1, through line 26, and by reinstating the stricken language on lines 2 through 6, page 2. Senator Corbin seconded the motion, and the motion carried.

There was discussion about suspensions or expulsions "following the student" across state lines. Senator Emert made a motion to further amend HB 2768 by striking the phrase "pursuant to the provisions of this act" from line 43, page 6, and line 1, page 7. Senator Langworthy seconded the motion, and the motion carried. Senator Emert made a motion that SB 2768, as amended, be recommended favorably for passage. Senator Langworthy seconded the motion. Senator Walker made a substitute motion that HB 2768 be amended by adding the sentence: "For any period of suspension or expulsion which extends more than thirty school days, the board of education of the school district must provide alternatives for the education of the pupil." where appropriate in the bill. Senator Jones seconded the substitute motion. Committee members expressed the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON EDUCATION, Room 123-S Statehouse, at 1:00 p.m. on March 17, 1994.

feeling that, by the time a student reaches this point, the school should not be held solely responsible for the student.

After discussion, the substitute motion failed. The original motion carried.

HB 2514 - Textbook purchase and rental plans maintained by school districts, participation by pupils of nonpublic schools

Senator Emert made a motion to amend HB 2514 by striking Sections 3 and 4 of the bill, and that the bill, as amended, be recommended favorably for passage. Senator Langworthy seconded the motion. Upon request, Chairman Kerr ruled that the motion would be divided. The motion to delete Sections 3 and 4 of the bill carried, and Senators Corbin and Tiahrt requested that their "no" votes be recorded. The motion to recommend the bill, as amended, favorably for passage carried.

The meeting was adjourned at 2:30 p.m. The next meeting is scheduled for March 21, 1994.

SENATE EDUCATION COMMITTEE

TIME: 1:00 PLACE: 123-5 DATE: 3/17/94

GUEST LIST

NAME

ADDRESS

ORGANIZATION

Susan Chase	Topeka	KUFA
Craig Grant	Topeka	KNEA
Jaigee Daker	"	SOE
Mark Callahan	Topeka	KASB
Helen Stephens	"	BV 229
Nemise Ays	"	USA
Jennifer Harrell	KU Lawrence	Intern - Sen. Jones
Jane Tobue	Topeka	Council on Voc Ed
Chas. Burdett	Topeka	USDOE/H
Kathy Sexton	"	Div. of Budget
Betty Smith Campese	Lawrence	Intern S. Reagan
Hershel Boor	Willsville	
Stephanie Chandler	Princeton	Farm Bureau (Capital Experience)
Nora Landess	Donnontonio	Farm Bureau
Fate Betz	Jetmore	Farm Bureau
Bobby Robinson	Franklin Co	Farm Bureau
Terri Boden	Esbon	Farm Bureau
B.J. Hill	Ellis	Farm Bureau
Tyler North	Ellis	Farm Bureau
R.J. Fisher	Ellis	Farm Bureau
Mark Mattison	ELLIS	Farm Bureau
Ann Stewart	Ellis	Farm Bureau
Shanda Solomon	Wamega	Head Start Parent
Shanda Deming	Coleby	Head Start
Ken Bahr	Topeka	4th Enrollment USD's

SENATE EDUCATION COMMITTEE

TIME: 1:00 PLACE: 123-S DATE: 3-17-94

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NAME

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ORGANIZATION

Sydney Hardman Laurence KS Action for Children

The Subcommittee on Inclusion made up of Senator Frahm, Senator Corbin, and Senator Downey has developed the following list of questions concerning the State Board of Education's policy on least restrictive environment for students with disabilities.

1. Should the words such as "appropriate/responsible" be included before the word inclusion?
 2. What is the definition of full inclusion?
(see attachment)
 3. Are the emotional, social, and academic needs of special education students being met through inclusion?
best
 4. Does inclusion hinder regular education students' academic achievement?
 5. What additional supports are needed for regular education teachers who are involved in inclusion?
How do we get beyond the knowledge level of assistance to the implementation level of assistance?
 6. Are there special pre-service and inservice needs related to inclusion?
 7. Is there a plan for evaluation of the state's policy on inclusion? How will outcomes be determined and evaluated on state-wide effectiveness of inclusion?
 8. How will the legislature and school districts know about the evaluation results?
 9. What is the state board's intent concerning the placement of special education students?*
- *(see paragraph 1, line 9, paragraph 3, sentence 2)

10. Must failure in the regular classroom be demonstrated prior to an alternative placement or can an alternative placement be recommended by the IEP team members?
11. Does ^{the State Board policy on} inclusion require regular classroom placement, documented failure, alternative placement sequence?
12. Who decides that it is "clear" that a student cannot succeed?
13. What is the role of parents in inclusion?
14. How do we allow special education teachers the flexibility to work with non-IEP students also?

for your files . . . POLICY LETTER

SPECIAL EDUCATION ADMINISTRATION

91-1

TO: All Directors of Special Education

FROM: Betty M. Weithers

DATE: January 7, 1991

RE: **POLICY CLARIFICATION: LEAST RESTRICTIVE ENVIRONMENT**

The delivery of Special Education services within program models variously described as "integrated" or "inclusive" is generating much discussion. This policy clarification is an attempt to define these two terms and to describe the implications of these program models on the delivery of services in the least restrictive environment.

Question: Is there a difference between inclusion and integration?

Answer: KSDE staff have determined that, although the terms are often used interchangeably, inclusion does differ from integration. The key factor is the location where services are delivered. An inclusive program maximizes the interactions between those with disabilities and those without and *takes place in the student's neighborhood school*. An integrated program maximizes the interactions between those with disabilities and those without but *does not take place in the student's neighborhood school*.

Question: What is inclusion?

Answer: Inclusion is used to describe a philosophical and programmatic orientation toward placement in the least restrictive environment regardless of the student's categorical label. An inclusion oriented program promotes a normalized educational experience for students with disabilities and their families. A critical component of inclusive programming is extensive cooperation and collaboration between regular education and special education teachers and administrators.

Inclusion may be best defined by its components:

- * physical - students with disabilities are educated in their neighborhood school, the school they would attend if they were not disabled;

Kansas State Department of Education

- * educational - individualized special education programs are referenced to the general education curriculum and primarily take place in classrooms with nondisabled students. A pull-out approach is used only when the team cannot achieve a satisfactory result in the regular education setting;
- * functional - school resources and areas are used by students with disabilities in the manner and at the times such resources are used by other students;
- * social - the structured and unstructured on-going interaction between students with and without disabilities occurs; and
- * societal - the community-based instruction needed to prepare students to function in integrated adult environments is provided.

Question: What is integration?

Answer: Integration is typically understood to mean education in regular education environments to some extent. It is often used to refer only to social integration during nonacademic times, for example, lunch, music class, art class or tutoring by nondisabled peers.

Like inclusion, the purpose of integration is to achieve programmatic and social benefits for students with disabilities. There is an effort to provide and support functional and social integration in age-appropriate regular education settings along with the community-based instruction needed by the students. Unlike inclusion, however, placement in the home community and neighborhood school is often lacking. In addition to overtaking the resources of schools which house one or more special education classrooms, the benefit of the neighborhood school is lacking. Likewise, the benefit of community based instruction is mitigated by its having occurred in a community other than the one in which the student lives and regularly participates.

It is important to note that the mere physical presence of a student with disabilities with nondisabled students does not constitute an integrated program. Physical presence alone does not meet the least restrictive environment mandate, nor should it be defined as integration.

Question: How important is it for a student with a disability to be enrolled in his or her neighborhood school?

Answer: Unless required by the student's IEP, placement should be "in the school which he or she would attend if not handicapped" (34 C.F.R. 300.552 (c)). When the decision is made to educate a student outside his or her home attendance center, consideration must be given to "any potential harmful effect on the student or on the quality of services which he or she needs" (C.F.R. 300.552 (d)). The team must recognize that an out-of neighborhood school placement limits the student's social development by removing him from his siblings and neighborhood peers and from opportunities to participate in extracurricular activities in his home community. Removal from home communities also inhibits the success of community-based instructional efforts. Lastly, parent involvement in the program and the school is often adversely affected by removal of the student from his or her neighborhood school. Weighing the proposed benefit of the alternative placement against these factors must be an integral part of the placement decision made for each individual.



Kansas State Board of Education

Kansas State Education Building
120 S. E. 10th Avenue, Topeka, Kansas 66612-1182

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Question: What is the Kansas State Department of Education's position on integration and inclusion?

Answer: The Education of the Handicapped Act calls for the availability of a continuum of placement options. This continuum is referenced in the Kansas State Plan and ranges from placement in regular education with the provision of supplementary aids and services to placement in separate classrooms or facilities and home bound services.

The principle of least restrictive environment requires that, when making placement and programmatic decisions, all IEP teams must begin with an assumption in favor of an inclusive program. Removal from regular education can only be made when it can be documented that a student cannot, even with supplementary aides and services available within the public school, achieve satisfactory educational progress commensurate with the student's potential.

Based on the LRE requirement, a rebuttable presumption should be made that any student irrespective of categorical label, can be served in the regular education classroom with support from special education. This presumption may be overcome based on the student's individual needs.

Question: What factors affect placement?

Answer: It is imperative that the student's individual needs determine placement. Placement should reflect the setting in which the student's needs can be best met when provided the educational services needed to support the student's individually designed special education program. Placement decisions must not be based on any of the following factors used alone or in combination: category of handicapping condition, configuration of the service delivery system, availability of educational or related services, availability of space, or curriculum content or methods of curriculum delivery. (Standards and Guidelines for Compliance with Federal Requirements for the Education of the Handicapped, 1986)

Individual needs, rather than blanket statements regarding the types of curriculum needed (i.e., vocational, academic, functional) should determine the program for the student. Setting alone does not provide the program. Placement is a combination of the type of program planned for the student and where it is offered. The curriculum offered to the student may be adapted to his needs in the regular education setting. For instance, a functional or lower reading objective can be learned by a student with disabilities at the same time and place as more advanced reading skills are learned by others. A language or communication goal can be taught to a student with severe disabilities in a classroom when other students are learning language arts.

Question: When must support be given to the regular classroom program? To what extent should this support be given?

Answer: As a general rule, support must be provided to the regular education program to augment the student's program when the individual teacher's ability to handle the divergence in the class has been exceeded. For example, when portions of the developmental curriculum offered in the regular classroom require adaptation (teaching at a different level or for a different learning objective), it is likely that support will be needed.

Support can be at several levels. Supplementary aids and services include, but are not limited to special instruction, instructional support services, materials or equipment provided in conjunction with regular classroom instruction including consulting services, itinerant services, resource services, tutoring, instructional support provided by teacher aides and paraprofessional personnel, technology, readers, and interpreters. Support may also take the form of teacher consultation or direct instruction by the special educator in the classroom.

Vital to the success of an inclusive program is support in the form of teacher training. Inservice and preservice training must address inclusion and integration as well as curriculum models which address diversity in the classroom. Examples include classwide peer tutoring, peer buddies, ability awareness, cooperative learning, computer assisted instruction, integrated therapies, individualized instruction, integration, and curriculum matrixing. Also, training focusing on collaborative consultation and team teaching is important to facilitate inclusive programming.

Support in the regular education classroom must be more than a token effort. Support in the classroom should begin with the most that may be needed to make inclusion successful and then fade as the teacher's skills, the teacher's confidence and peer support increase. It should not be assumed, however, that even an extremely skilled teacher and supportive peers can adequately include a student with disabilities without direct support from special educators. For some students, the support may only be needed in the initial stages. For others, the support will be on-going, according to their individual needs. The responsibility for ensuring adequate programming remains with the special education and related service personnel.

**AMERICAN CIVIL LIBERTIES UNION
OF KANSAS AND WESTERN MISSOURI**
706 West 42nd Street, Kansas City, Missouri 64111 (816) 756-3113

Statement in Opposition to House Bill 2768
Senate Education Committee, Hon. Dave Kerr, Chair
March 16, 1994
Carla Dugger, Associate Director

The American Civil Liberties Union of Kansas opposes HB 2768 for the following reasons:

- HB 2768 expands the reasons for suspension or expulsion by allowing any misdemeanor offense to qualify. It does require that the "behavior" reasonably be anticipated to result in disruption, etc., in the school or impingement on the rights of others, but this is so vague as to be meaningless.
- It increases the amount of time a student can be ousted by allowing carry-over into the next school year. In other words, a student suspended in March 1994 is still suspended in August, 1994 until 90 school days expire. This is especially harsh since current law says a suspended student can't go to another school district and enroll.
- Where in the bill is there any acknowledgment of the fresh start we try to give young persons through juvenile court? What incentive is there for a student to "get it together" over the summer and start the next year off on the right foot?
- The only added procedural protection in the proposal is the provision for the hearing to be recorded or transcribed. This is not a significant protection, especially given the small numbers of suspension hearings that are appealed.