

SENATE BILL No. 380

By Committee on Public Health and Welfare

1-24

1 AN ACT concerning education; relating to exceptional children; revising
2 certain definitions to replace emotional disturbance with emotional
3 disability; amending K.S.A. 72-3404 and 75-5399 and repealing the
4 existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 72-3404 is hereby amended to read as follows: 72-
8 3404. As used in this act:

9 (a) "School district" means any public school district.
10 (b) "Board" means the board of education of any school district.
11 (c) "State board" means the state board of education.
12 (d) "Department" means the state department of education.
13 (e) "State institution" means any institution under the jurisdiction of a
14 state agency.

15 (f) "State agency" means the Kansas department for children and
16 families, the Kansas department for aging and disability services, the
17 department of corrections and the juvenile justice authority.

18 (g) "Exceptional children" means persons who are children with
19 disabilities or gifted children and are school age, to be determined in
20 accordance with rules and regulations adopted by the state board, which
21 age may differ from the ages of children required to attend school under
22 the provisions of K.S.A. 72-3120, and amendments thereto.

23 (h) "Gifted children" means exceptional children who are determined
24 to be within the gifted category of exceptionality as such category is
25 defined by the state board.

26 (i) "Special education" means specially designed instruction provided
27 at no cost to parents to meet the unique needs of an exceptional child,
28 including: (1) Instruction conducted in the classroom, in the home, in
29 hospitals and institutions, and in other settings; and (2) instruction in
30 physical education.

31 (j) "Special teacher" means a person, employed by or under contract
32 with a school district or a state institution to provide special education or
33 related services, who is: (1) Qualified to provide special education or
34 related services to exceptional children as determined pursuant to
35 standards established by the state board; or (2) qualified to assist in the
36 provision of special education or related services to exceptional children as

1 determined pursuant to standards established by the state board.

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

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

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

9 (n) "Person acting as parent" means a person such as a grandparent,
10 stepparent or other relative with whom a child lives or a person other than
11 a parent who is legally responsible for the welfare of a child.

12 (o) "Education advocate" means a person appointed by the state board
13 in accordance with the provisions of K.S.A. 38-2218, and amendments
14 thereto. A person appointed as an education advocate for a child shall not
15 be: (1) An employee of the agency ~~which~~ that is required by law to
16 provide special education or related services for the child; (2) an employee
17 of the state board, the department, or any agency ~~which is~~ directly
18 involved in providing educational services for the child; or (3) any person
19 having a professional or personal interest ~~which~~ that would conflict with
20 the interests of the child.

21 (p) "Free appropriate public education" means special education and
22 related services that: (1) Are provided at public expense, under public
23 supervision and direction, and without charge; (2) meet the standards of
24 the state board; (3) include an appropriate preschool, elementary, or
25 secondary school education; and (4) are provided in conformity with an
26 individualized education program.

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

29 (r) "Individualized education program" or "IEP" means a written
30 statement for each exceptional child that is developed, reviewed, and
31 revised in accordance with the provisions of K.S.A. 72-3429, and
32 amendments thereto.

33 (s) (1) "Related services" means transportation, and such
34 developmental, corrective, and other supportive services, including
35 speech-language pathology and audiology services, interpreting services,
36 psychological services, physical and occupational therapy, recreation,
37 including therapeutic recreation, social work services, school nurse
38 services designed to enable a child with a disability to receive a free
39 appropriate public education as described in the child's IEP, counseling
40 services, including rehabilitation counseling, orientation and mobility
41 services, and medical services, except that such medical services shall be
42 for diagnostic and evaluation purposes only, as may be required to assist
43 an exceptional child to benefit from special education, and includes the

1 early identification and assessment of disabling conditions in children.

2 (2) "Related services" ~~shall~~ *does* not mean any medical device that is
3 surgically implanted or the replacement of any such device.

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

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

23 (v) "Evaluation" means a multisourced and multidisciplinary
24 examination, conducted in accordance with the provisions of K.S.A. 72-
25 3428, and amendments thereto, to determine whether a child is an
26 exceptional child.

27 (w) "Independent educational evaluation" means an examination
28 ~~which~~ *that* is obtained by the parent of an exceptional child and performed
29 by an individual or group of individuals who meet state and local
30 standards to conduct such an examination.

31 (x) "Elementary school" means any nonprofit institutional day or
32 residential school that offers instruction in any or all of the grades
33 kindergarten through nine.

34 (y) "Secondary school" means any nonprofit institutional day or
35 residential school that offers instruction in any or all of the grades nine
36 through 12.

37 (z) "Children with disabilities" means: (1) Children with intellectual
38 disability, hearing impairments including deafness, speech or language
39 impairments, visual impairments including blindness, emotional
40 ~~disturbance~~ *disability*, orthopedic impairments, autism, traumatic brain
41 injury, other health impairments, or specific learning disabilities and who,
42 by reason thereof, need special education and related services; and (2)
43 children experiencing one or more developmental delays and, by reason

1 thereof, need special education and related services if such children are
2 ages three through nine.

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

7 (bb) "Material change in services" means an increase or decrease of
8 25% or more of the duration or frequency of a special education service, a
9 related service or a supplementary aid or a service specified on the IEP of
10 an exceptional child.

11 (cc) "Developmental delay" means such a deviation from average
12 development in one or more of the following developmental areas, as
13 determined by appropriate diagnostic instruments and procedures, as
14 indicates that special education and related services are required: (1)
15 Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5)
16 social or emotional development.

17 (dd) "Homeless children" means "homeless children and youths" as
18 defined in the federal McKinney-Vento homeless assistance act, 42 U.S.C.
19 § 11434a.

20 (ee) "Limited English proficient" means an individual who meets the
21 qualifications specified in section 9101 of the federal elementary and
22 secondary education act of 1965, as amended.

23 Sec. 2. K.S.A. 75-5399 is hereby amended to read as follows: 75-
24 5399. When used in this act:

25 (a) "Individuals with disabilities" means individuals with intellectual
26 disability, hearing impairments including deafness, speech or language
27 impairments, visual impairments including blindness, serious emotional
28 ~~disturbance~~ *disability*, orthopedic impairments, autism, traumatic brain
29 injury, other health impairments or specific learning disabilities.

30 (b) "Transition services" means a coordinated set of activities for a
31 student, designed within an outcome-oriented process, ~~which that~~
32 promotes movement from school to post-school activities, including post-
33 secondary education, vocational training, integrated employment ~~(,~~
34 including supported employment), continuing and adult education, adult
35 services, independent living or community participation. The coordinated
36 set of activities shall be based upon the individual student's needs, taking
37 into account the student's preferences and interests, and shall include
38 instruction, community experiences, the development of employment and
39 other post-school adult living objectives and, when appropriate,
40 acquisition of daily living skills and functional vocational evaluation.

41 (c) "Transition planning services" means rehabilitation counseling,
42 information and referral to community services for students age 16 and
43 older in secondary special education programs.

1 (d) "Local education authority" means the special education interlocal
2 or cooperative or school district responsible for the local special education
3 program.

4 (e) "Special education program" means services that are provided
5 pursuant to public law 94-142-~~(~~ the education of all handicapped
6 children's act), as implemented in Kansas through K.S.A. 72-3403 et seq.,
7 and amendments thereto, and public law 101-476-~~(~~ the individuals with
8 disabilities education act).

9 (f) "Secretary" means the secretary for children and families or the
10 designee of the secretary.

11 (g) "Local transition council" means a representative group of
12 persons with disabilities and their families, school personnel, adult service
13 agency personnel and members of the general public such as employers
14 ~~which~~ *that* develops an annual plan to improve secondary special
15 education, transition and transition planning services.

16 Sec. 3. K.S.A. 72-3404 and 75-5399 are hereby repealed.

17 Sec. 4. This act shall take effect and be in force from and after its
18 publication in the statute book.