

MINUTES

SPECIAL EDUCATION FUNDING TASK FORCE

September 22, 2008
Room 545-N—Statehouse

Members Present

Dr. Alexa Posny, Chairperson
Representative Clay Aurand
Representative Gene Rardin
Glennys Doane
Bert Moore
Lori Hisle
Mike Lewis
Mary Anne Trickle
Dr. Wade Anderson
Dr. Rob Balsters
Dr. Tim Wertz
Dr. Neil Guthrie

Staff Present

Sharon Wenger, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Kristen Kellems, Office of the Revisor of Statutes
Theresa Kiernan, Office of the Revisor of Statutes
Dale Dennis, Deputy Commissioner, Department of Education
Jan Lunn, Committee Secretary

Others Attending

45 members of the public in attendance.

Morning Session

Dr. Posny called the meeting to order at 10:04 a.m. and requested that Task Force members introduce themselves to the public.

Members of the Task Force reviewed the minutes of the August 8, 2008, meeting and *upon a motion by Dr. Balsters, with a second by Dr. Guthrie, to approve the minutes as written, the motion passed.*

Special Education Funding Formulas

Dr. Posny recognized Dale Dennis, Deputy Commissioner, Kansas State Department of Education, who presented information regarding the three primary special education formulas used across the United States. Mr. Dennis described the formulas as:

- A resource-based or categorical formula is based on numbers of teachers, professionals, and paraprofessionals providing special education services. Catastrophic aid, special education Medicaid, and transportation funding could either be excluded or provided as specified by the Legislature.
- A census-based formula is based on funding that is added to the Base State Aid Per Pupil with the Legislature determining specific funding for catastrophic, special education, Medicaid, and transportation (excluded or included in the formula).
- A weighting formula is based upon the cost of meeting needs as provided by each child's Individual Education Plan. The number of weightings can vary from three to 12 or more. This formula also can be described as census-based with weightings (Attachment 1).

Mr. Dennis distributed information related to special education funding formulas used by Iowa, Colorado, North Dakota, Oklahoma, and Nebraska (Attachment 2). This information was forwarded by Mike Lewis, Task Force member. Mr. Lewis explained the referenced attachment related to special education funding formula models from several states. He indicated these states were selected because they border Kansas; information was collected from October through November 2007.

Mr. Dennis noted significant points, including:

- In Iowa, transportation is not separated out;
- In Colorado, state funds cover approximately 16 percent of the special education program;
- In North Dakota, a weighted formula based on district size is used and all funds are rolled into general funds;
- In Oklahoma, a pupil weighting formula is challenging and complex; and
- In Nebraska, the funding formula is similar to the State of Kansas, however, a catastrophic aid component is excluded from the formula.

Representative Rardin inquired as to the methodology of the survey. Mr. Lewis explained questions were gathered from Dr. Tom Parrish; surveys were sent out requesting participation, and

feedback was obtained from one person in each state's department of education through phone call or e-mail.

Dr. Posny asked how long the current resource-based formula has existed. Mr. Dennis responded that the formula has been in place longer than 40 years, and according to his knowledge, was created based on the number of teachers and paraprofessionals with transportation funding added throughout the years. Dr. Posny further stated that many years ago, special education funding was created due to a need to educate designated groups of students who were considered mentally retarded, and therefore, dedicated teachers were hired to work with this population group.

Mr. Dennis distributed a "Comparison of Current Law (Resource-based Funding Formula) compared to a Full-Time Equivalent (FTE) Per Pupil Funding Formula" ([Attachment 3](#)). The information compares the effects of the current 2007-08 special education state aid formula (distributed on a per teacher/paraprofessional amount) with what it would have been had all funds been distributed on an FTE per pupil amount (distributed on the number of FTE pupils in the school district). Mr. Dennis clarified the \$793 is for all pupils (not just special education pupils). The base calculation for this formula is derived from the 2007-08 estimated state aid (based upon teachers/paraprofessionals) and dividing that amount by the total full-time equivalent of students in Kansas schools. In the scenario contained in this spreadsheet, the dollar amount received for transportation, catastrophic and special Medicaid aid is assumed to be the same. The spreadsheet contains columns of information as follows:

- Column 1 is the 2007-08 FTE enrollment by county and school district;
- Column 2 is the 2007-08 special education state aid under the current resource-based formula by county and school district;
- Column 3 is the 2007-08 special education state aid under the FTE per pupil formula by county and school district;
- Column 4 is the difference between the current formula (resource-based) and the estimated funding under the FTE per pupil formula (at \$739 per pupil) by county and school district; and
- Column 5 is the percentage of students with IEPs (excluding gifted students) that are considered disabled by county and school district.

Mr. Dennis also reported that the information contained in the spreadsheet had been sorted in three ways:

- Alphabetical by county name with districts listed;
- From low to high dollars under the FTE per pupil formula; and
- From low to high percentages of children with disabilities.

Considerable discussion was heard regarding equity issues reflected in the information presented, teacher to pupil ratios, the impact of teacher compensation on funding formulas, the variations in teacher compensation from geographic area to geographic area, and the issue of holding districts harmless which would cost approximately \$40.0 to \$50.0 million during transition to a new funding formula, if adopted. Dr. Balsters indicated it would be interesting to evaluate the formula with Medicaid, catastrophic, and transportation aid excluded. If those components were

excluded, the picture presented would be a true cost of educating a special education student by county and school district.

Mr. Dennis distributed an article entitled, "Comparison of Current Law and Census-Based Funding Formula" ([Attachment 4](#)). This formula provides the effects of comparing the current 2007-08 special education state aid formula (resource-based on teacher/paraprofessional numbers) with what it would have been if the funds (excluding cost-of-living weighting, ancillary facilities weighting, declining enrollment, and special education) were added to the Base State Aid Per Pupil based on the student's IEP which represents a census-based weighted methodology. In other words, rather than distributing the special education state aid under a resource-based formula, special education state aid would be included in the base state aid at the rate of \$543 per pupil. This calculation is derived from the 2007-08 estimated state aid (based upon teachers/paraprofessionals) and dividing that amount by the weighted enrollment of Kansas students (*i.e.*, at-risk weightings). In the scenario contained in this spreadsheet, the dollar amount received for transportation, catastrophic and special Medicaid aid is assumed to be the same. The spreadsheet contains columns of information as follows:

- Column 1 is the 2007-08 FTE enrollment by county and school district;
- Column 2 is the 2007-08 special education state aid under the current resource-based formula by county and school district;
- Column 3 is the 2007-08 special education state aid achieved by increasing Base State Aid Per Pupil by \$543 (census-based formula) by county and school district;
- Column 4 is the difference between the current formula (resource-based) and the estimated funding under the census-based formula by county and school district; and
- Column 5 is the percentage of students with IEPs (excluding gifted students) that are considered disabled by county and school district.

The same sort methodology as described above was applied to the information contained in the census-based formula analysis other than the secondary sort was from low to high dollars under the census-based formula.

Discussion ensued regarding the differences in the two formulas, how state aid is appropriated, and other questions related to the information presented.

Dr. Posny opened the public hearing to receive suggestions for improving Kansas' Special Education Funding Formula by recognizing Deborah Haltom, Director of Special Education Services for the Shawnee Mission School District, who spoke in support of using a census-based formula for funding special education services. Ms. Haltom provided written testimony citing comparisons between the resource-based formula and a census-based formula ([Attachment 5](#)). The supported formula is one that is a census based model appropriating an amount for special education which covers transportation and catastrophic aid and then equally distributes the remaining funds on the full-time equivalent pupil count in each school district excluding any weighting methodology.

Ms. Haltom's testimony was briefly interrupted when Governor Kathleen Sebelius appeared and requested a moment to speak. Governor Sebelius had previously attended a state employee recognition celebration at the Kansas Historical Museum honoring long-term employees. Governor Sebelius stated one person was absent from the celebration, and that person was Dale Dennis,

Deputy Commissioner of Education. Governor Sebelius presented Mr. Dennis with his 40-year service pin and thanked him for his many years of dedicated service to the State of Kansas.

Ms. Haltom concluded by recognizing the success of utilizing early intervention strategies accompanied by implementing Multi/Tier System of Supports (MTSS) to assist with the early identification and education of special education students. She emphasized that a census-based formula would provide the flexibility required for special education resources to be used to address the learner's needs as they are identified.

Questions were heard relating to whether Missouri had a weighted census-based formula, whether hold harmless agreements by school districts should be implemented to ease significant funding losses under a shift to a new formula, how to utilize catastrophic aid funding to address high needs in unique districts, how to ensure special needs children are served, the possibility of increased litigation with the implementation of a census-based formula, and how to provide equity to districts in rural settings.

Ms. Haltom could not provide information on Missouri's formula, however, Ms. Wenger offered to provide Task Force members with that answer. Ms. Haltom favored the use of catastrophic aid when required, as well as holding school districts harmless during a formula transition; she emphasized the importance of reassessment when children move into districts; and expressed her opinion that she did not believe additional due process would occur as a result of implementing a census-based formula.

Mark Hauptman, Assistant Superintendent, Hays West Central Kansas Special Education Cooperative, was recognized. Mr. Hauptman spoke in support of continuing to use the current resource-based funding formula in the State of Kansas. Mr. Hauptman distributed his testimony ([Attachment 6](#)). Mr. Hauptman indicated that under the current formula: special education educators are familiar with categorical funding; there is no incentive to add special education students; reimbursement for transportation is equalized; additional staff can be added throughout the year; there is no incentive to add special education staff; and provisions exist for providing services to disproportionate numbers of special education students in some districts. Mr. Hauptman referenced a December 2007 Legislative Post Audit Report on Special Education Finance noting that the report suggested a large variance of excess costs for special education across 69 school districts and cooperatives. The important point, he suggested, is to remember the variance is not caused by the funding formula; the funding formula simply distributes the money pool called "excess cost." Mr. Hauptman expressed his recommendation that special education funds should be separate from other funding streams to ensure special education students' needs are met and that using per pupil instructional cost instead of operational cost in the current resource-based formula to determine "excess costs" would enhance the current formula.

Dr. Ron Sarnecki, Special Education Director, Cowley County Special Services Cooperative, was introduced. Dr. Sarnecki distributed his written testimony ([Attachment 7](#)). He stated that the prime purpose of special education funding is to ensure that the needs of students with disabilities are met; he focused on the present special education funding system and its correlation with regular education, the Legislative Post Audit Study and its ramifications, and he shared thoughts on census-based funding and presented ideas relative to the best funding system.

Dr. Sarnecki indicated that the current special education formula not only provides equity and the ability to hire additional staff, but that it supports transportation services, is based on student need, provides for separation of special education funding from regular education funding, and it does not penalize districts where extensive foster care or group homes, or both, for students with severe disabilities have been established. The current funding system is cognizant of positive outcomes as evidenced by information contained in Dr. Sarnecki's attachment. The current regular

education funding system provides additional monies for students with high percentages of at-risk students (free lunch/reduced lunch), provides disproportionate funding for low enrollment districts, and provides transportation weighting.

Dr. Sarnecki expressed his reservation to change a funding formula just for the sake of change. He recommended that whatever funding formula is utilized it must have: special education money separate to ensure it is used for special education students; adequate funding; access to appropriate education; coverage of transportation; catastrophic aid; flexibility to handle local, unique conditions; and correlate with regular education funding (*i.e.*, high poverty levels). He further recommended that Department of Education special education team members should review the total number of staff employed by districts on an annual basis to determine which districts significantly exceed the Kansas average staff to student ratio. Subsequent conferences would take place with leaders of such districts to discuss the variances and differences. This oversight would provide some control relative to the number of special education staff employed by districts.

Afternoon Session

Dr. Lynn Ahrens, Director of Special Education, South Central Kansas Special Education Cooperative, was recognized. Dr. Ahrens spoke in support of the current resource-based funding formula. She cited pros and cons of various formulas (Attachment 8).

Dr. Ahrens noted that during the luncheon recess, she had an opportunity to briefly review the information Mr. Dennis had distributed earlier in the meeting, and that under both funding formulas, her districts would lose funds. Dr. Ahrens suggested that smaller districts equate to higher levels of special education percentages, if a family of three moves into the district, percentages can increase from 11 percent to 24 percent within a short period of time. In Dr. Ahrens' cooperative, there are 15 school districts covering over 5,110 square miles. There are significant challenges finding special education teachers especially in rural or frontier Kansas areas, therefore, over-identification of special education students has not been an issue.

Dr. Ahrens said that even though funding is currently a resource-based one, districts still have to provide all the equipment and materials that a special education student needs. Dr. Ahrens indicated that all districts are unique and do not have the same needs. Also, special education students have very specific needs and under a census-based formula, the special education students with the most severe needs could not be served as well as they are under the current formula.

Due to the geographic size of South Central Kansas Special Education Cooperative, Dr. Ahrens elaborated on unique ways her cooperative has structured a functional education curriculum for the most severe behavioral disordered students as well as the creation of a home for girls that has just opened. Dr. Ahrens emphasized that when special education services are provided in small districts, many families will move to these areas solely for the educational services that can serve their children.

Dr. Posny recognized Kim Stephens, Superintendent of Udall, USD 463. Mr. Stephens has recently moved to Kansas from Oklahoma. His purpose in testifying was to provide some expertise into Oklahoma's funding formula (weighted funding formula) (Attachment 9). In comparing the two states' funding formulas, Mr. Stephens stated the Kansas formula provides and meets the needs of not only special education but also regular education students. He encouraged Task Force members to retain the current resource-based funding formula. Mr. Stephens emphasized that in small, rural districts, a seemingly insignificant change in funding formulas can have major impact.

Tom Krebs, Governmental Relations Specialist, Kansas Association of School Boards, was present to discuss issues related to special education funding ([Attachment 10](#)). Mr. Krebs stated there were three main points he requested Task Force members consider:

- Any formula should be adequate to ensure all districts provide appropriate programming to all students;
- Any formula should provide resources on an equitable basis, ensuring quality programming wherever they are located; and
- Any formula should ensure all districts have comparable resources for serving comparable students.

Mr. Krebs discussed three formulas: pupil-weighting, resource-based, and census-based, noting benefits and drawbacks to each one. Discussion was heard related to MT/SS and the promise implementation of this model offers districts in developing broad-based academic and behavioral support systems. Mr. Krebs also noted the improvement in results of Kansas state assessments for students with disabilities under the current resource-based funding formula.

Mr. Krebs said that if a different formula is adopted, the Task Force should provide some evidence (from other states using the selected funding formula) that the formula does work, not only in terms of expenditures, but also in student outcomes. Mr. Krebs also expressed concern that by including special education funding in the overall school finance plan (census-based formula), a risk exists that funding could be reduced from the current 92 percent level due to inability to measure special education funding. He further stressed the importance of continuing catastrophic aid and utilizing a phase-in approach should a new formula be adopted. Dr. Posny added that in terms of evaluating outcomes of various formulas in different states, the difficulty lies in comparability (*i.e.*, teacher quality, state assessments, and performance targets) and the lack of existing data.

Mary Kelly, Wichita Public Schools, distributed her written testimony ([Attachment 11](#)). Ms. Kelly stressed the intuitive links between poverty and the existence of students with disabilities, noting that “people in poverty have a higher incidence of disability, and people with disabilities are more likely to live in poverty.” Ms. Kelly stated simply that a child living in poverty does not come to school “ready to learn.” Statistics from her testimony included:

- Wichita, Kansas City, and Topeka rank first, fifth, and seventh, respectively, as districts with the highest state enrollments;
- By using the measurement factor of students on free and reduced lunch as indicators of poverty, Wichita has the highest percentage of students on free and reduced lunch at 57 percent; Kansas City is the second largest at 56 percent; and Topeka is the third largest with 54 percent of students on free and reduced lunch. In addition, these three districts also have the lowest categorical aid per student;
- Wichita, Kansas City, and Topeka also rank in the top number of districts for number of students with more significant challenges such as severe emotional disturbance, mental retardation, multiple disabilities, and autism; and
- When comparing the percentage of free and reduced lunch students (poverty level indicator) to the number of special education staff per student, Wichita has

the lowest number of staff with Kansas City and Topeka ranking second and third in staff-to-student ratios.

Ms. Kelly indicated that in efforts to support high numbers of students with disabilities living at or below poverty levels and who are struggling for success in the school systems, special education has been the one alternative to address the needs of these students; and special education funding, to date, has been inadequate to meet needs. Careful consideration should be given to evaluating a formula that:

- Includes a poverty-weighting factor that will assist districts with disproportionately higher rates of poverty;
- Allows flexibility to use special education funding to support interventions through MT/SS that prevents academic failure and social-emotional difficulties;
- Allows flexibility to intermingle all school funds in order to prevent over-identification of students requiring special education services; and
- Requires all allocated resources to flow through special education funding to determine actual costs so that 92 percent of excess costs can be calculated annually.

Dr. Posny introduced Doug Bowman, Coordinator for the Coordinating Council on Early Childhood Developmental Services, who spoke regarding the drastic impact any formula change could have on early childhood programs for children from birth through age five ([Attachment 12](#)). In Kansas, a funding formula focuses on children from kindergarten through grade 12, however, special education funding is the single largest source of funding for the Kansas *tiny-k* networks and for preschool age children. Mr. Bowman stressed the importance of supporting the basic tenets of the federal Individuals with Disabilities Education Act (IDEA), and the importance of a formula with a neutral fiscal impact on services as it relates to the setting where children are served.

Terry Collins, Director of Doniphan County Education Cooperative, was recognized. Mr. Collins explained how funding has increased in his small, rural district with a small enrollment (no written testimony). He provided information indicating that in a district similar to his, if three additional special education students move into the district, the percentage of students with disabilities can be increased 300 percent; therefore, resulting in the addition of at least one certified and two classified staff members. Mr. Collins' point was to encourage staff members to think of similar factors and ramifications when changing a funding formula in small, rural districts with small enrollments. He emphasized that the current resource-based formula works well. Mr. Collins indicated that catastrophic aid could alleviate some of the funding issues when children meet that level.

Rodger Horton, special education teacher, Wichita, USD 259, was introduced by the Chairperson. Mr. Horton has taught for 13 years in one of the Wichita special day schools. He does not support one formula over another; his concern relates to the recruitment and retention of special education teachers and the impact a funding formula could have on special education teachers in the future. Dr. Posny added that special education teachers are provided the majority of emergency licenses followed by mathematics and science teachers. She verified Mr. Horton's statistics in that data shows Kansas loses approximately 40 percent of special education teachers in the first seven years. Dr. Posny expressed thanks to Mr. Horton for his thoughts and the job he performs.

Dr. Posny referred to written testimony submitted by Sue Denny, Executive Director of Student Services, Blue Valley Schools, USD 229 (Attachment 13).

Dr. Posny indicated the public hearing was concluded and requested further input and direction from the Task Force members.

Dr. Balsters stated that given the testimony provided, he was intrigued by the poverty information from the Wichita District, particularly the staff-to-student ratios and whether a poverty factor should be included in a funding formula. He indicated he was unconvinced that a census-based formula is the appropriate direction; however, if the current resource-based formula is retained, additional avenues/methods could be incorporated. Many ideas brought forward in the public hearing have merit. Dr. Balsters indicated additional study is needed when regional costs and needs exceed limits especially when compared to areas/districts in other areas of the state.

Dr. Posny agreed and suggested the inclusion of different pieces/parts (census-based and partially weighted) in a proposed formula. Dr. Balsters suggested running various "what if" scenarios and percentages including transportation aid but excluding catastrophic and special education Medicaid.

Representative Rardin concurred with the evaluation of a "hybrid" model and questioned whether any models existed that would simplify and ensure needs are met. Dr. Posny indicated she would contact Dr. Chambers and Dr. Parrish to inquire regarding the existence of this type of formula. Representative Rardin also indicated support for a model allowing the use of special education funding for Multi/Tier System of Supports initiatives.

Mr. Lewis indicated that concerns relative to losing special education dollars exist. He suggested that as districts implement MT/SS and other initiatives to aid in special education student identification, the result is hoped to be fewer special education students and greater success rates. Therefore, the danger of losing special education funding is a real concern to many parents.

Mr. Dennis clarified that under a three-year legislative plan, at-risk funding is at 45.6 percent this year and if high poverty exists, there is an additional 10 percent, which is approximately \$2,400 per student.

Dr. Posny thanked Task Force members, conferees, and the public for attending, and she adjourned the meeting at 2:40 p.m.

Prepared by Jan Lunn
Edited by Sharon Wenger

Approved by Task Force on:

November 3, 2008
(Date)