

HOUSE BILL No. 2322

AN ACT concerning education; relating to exceptional children; revising the definition of "children with disabilities" to replace emotional disturbance with emotional disability and include dyslexia; amending K.S.A. 2022 Supp. 72-3404 and 75-5399 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2022 Supp. 72-3404 is hereby amended to read as follows: 72-3404. As used in this act:

- (a) "School district" means any public school district.
- (b) "Board" means the board of education of any school district.
- (c) "State board" means the state board of education.
- (d) "Department" means the state department of education.
- (e) "State institution" means any institution under the jurisdiction of a state agency.
- (f) "State agency" means the Kansas department for children and families, the Kansas department for aging and disability services, the department of corrections and the juvenile justice authority.
- (g) "Exceptional children" means persons who are children with disabilities or gifted children and are school age, to be determined in accordance with rules and regulations adopted by the state board, whose age may differ from the ages of children required to attend school under the provisions of K.S.A. 72-3120, and amendments thereto.
- (h) "Gifted children" means exceptional children who are determined to be within the gifted category of exceptionality as such category is defined by the state board.
- (i) "Special education" means specially designed instruction provided at no cost to parents to meet the unique needs of an exceptional child, including:
 - (1) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and
 - (2) instruction in physical education.
- (j) "Special teacher" means a person, employed by or under contract with a school district or a state institution to provide special education or related services, who is qualified to:
 - (1) Provide special education or related services to exceptional children as determined pursuant to standards established by the state board; or
 - (2) assist in the provision of special education or related services to exceptional children as determined pursuant to standards established by the state board.
- (k) "State plan" means the state plan for special education and related services authorized by this act.
- (l) "Agency" means boards and the state agencies.
- (m) "Parent" means:
 - (1) A natural parent;
 - (2) an adoptive parent;
 - (3) a person acting as parent;
 - (4) a legal guardian;
 - (5) an education advocate; or
 - (6) a foster parent, if the foster parent has been appointed the education advocate of an exceptional child.
- (n) "Person acting as parent" means a person such as a grandparent, stepparent or other relative with whom a child lives or a person other than a parent who is legally responsible for the welfare of a child.
- (o) "Education advocate" means a person appointed by the state board in accordance with the provisions of K.S.A. 38-2218, and amendments thereto. A person appointed as an education advocate for a child shall not be:
 - (1) An employee of the agency who is required by law to provide special education or related services for the child;
 - (2) an employee of the state board, the department, or any agency that is directly involved in providing educational services for the child;or

(3) any person having a professional or personal interest that would conflict with the interests of the child.

(p) "Free appropriate public education" means special education and related services that:

(1) Are provided at public expense, under public supervision and direction, and without charge;

(2) meet the standards of the state board;

(3) include an appropriate preschool, elementary or secondary school education; and

(4) are provided in conformity with an individualized education program.

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

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

(s) (1) "Related services" means transportation, and such developmental, corrective, and other supportive services, including speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a free appropriate public education as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only, as may be required to assist an exceptional child to benefit from special education, and includes the early identification and assessment of disabling conditions in children.

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

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

(u) "Individualized education program team" or "IEP team" means a group of individuals composed of:

(1) The parents of a child;

(2) at least one regular education teacher of the child if the child is, or may be, participating in the regular education environment;

(3) at least one special education teacher or, where appropriate, at least one special education provider of the child;

(4) a representative of the agency directly involved in providing educational services for the child who is:

(A) Qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of exceptional children;

(B) knowledgeable about the general curriculum; and

(C) knowledgeable about the availability of resources of the agency;

(5) an individual who can interpret the instructional implications of evaluation results;

(6) at the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) whenever appropriate, the child.

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

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

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

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

(z) "Children with disabilities" means children who:

(1) Have an intellectual disability, hearing loss including deafness, speech or language disorders, visual impairments including blindness, emotional—~~disturbance~~ *disability*, orthopedic impairments, autism, *dyslexia*, traumatic brain injury, other health impairments, or specific learning disabilities and who, by reason thereof, need special education and related services; and

(2) are experiencing one or more developmental delays and, by reason thereof, need special education and related services if such children are ages three through nine.

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

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

(cc) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas, as determined by appropriate diagnostic instruments and procedures, as indicates that special education and related services are required:

- (1) Physical;
- (2) cognitive;
- (3) adaptive behavior;
- (4) communication; or
- (5) social or emotional development.

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

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

(ff) "*Emotional disability*" means the same as the term "*emotional disturbance*" is used in public law 101-476, the *individuals with disabilities education act*.

Sec. 2. K.S.A. 2022 Supp. 75-5399 is hereby amended to read as follows: 75-5399. As used in this act:

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

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

(c) "Transition planning services" means rehabilitation counseling, information and referral to community services for students age 16 and

older in secondary special education programs.

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

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

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

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

(h) "Emotional disability" means the same as the term "emotional disturbance" is used in public law 101-476, the individuals with disabilities education act.

Sec. 3. K.S.A. 2022 Supp. 72-3404 and 75-5399 are hereby repealed.

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

I hereby certify that the above BILL originated in the House, and passed that body

HOUSE concurred in
SENATE amendments _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.