

HOUSE BILL No. 2436

By Representatives Merrick and Judy Morrison

2-7

9 AN ACT concerning school districts; relating to special education;
10 amending K.S.A. 2006 Supp. 72-962 and repealing the existing section.

11

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

13 Section 1. K.S.A. 2006 Supp. 72-962 is hereby amended to read as
14 follows: 72-962. As used in this act:

- 15 (a) "School district" means any public school district.
16 (b) "Board" means the board of education of any school district.
17 (c) "State board" means the state board of education.
18 (d) "Department" means the state department of education.
19 (e) "State institution" means any institution under the jurisdiction of
20 a state agency.
21 (f) "State agency" means the department of social and rehabilitation
22 services, the department of corrections and the juvenile justice authority.
23 (g) "Exceptional children" means persons who are children with dis-
24 abilities or gifted children and are school age, to be determined in ac-
25 cordance with rules and regulations adopted by the state board, which
26 age may differ from the ages of children required to attend school under
27 the provisions of K.S.A. 72-1111, and amendments thereto.
28 (h) "Gifted children" means exceptional children who are deter-
29 mined to be within the gifted category of exceptionality as such category
30 is defined by the state board.
31 (i) "Special education" means specially designed instruction provided
32 at no cost to parents to meet the unique needs of an exceptional child,
33 including:
34 (1) Instruction conducted in the classroom, in the home, in hospitals
35 and institutions, and in other settings; and
36 (2) instruction in physical education.
37 (j) "Special teacher" means a person, employed by or under contract
38 with a school district or a state institution to provide special education or
39 related services, who is: (1) Qualified to provide special education or
40 related services to exceptional children as determined pursuant to stan-
41 dards established by the state board; or (2) qualified to assist in the pro-
42 vision of special education or related services to exceptional children as
43 determined pursuant to standards established by the state board.

- 1 (k) "State plan" means the state plan for special education and related
2 services authorized by this act.
- 3 (l) "Agency" means boards and the state agencies.
- 4 (m) "Parent" means: (1) A natural parent; (2) an adoptive parent; (3)
5 a person acting as parent; (4) a legal guardian; (5) an education advocate;
6 or (6) a foster parent, if the foster parent has been appointed the edu-
7 cation advocate of an exceptional child.
- 8 (n) "Person acting as parent" means a person such as a grandparent,
9 stepparent or other relative with whom a child lives or a person other
10 than a parent who is legally responsible for the welfare of a child.
- 11 (o) "Education advocate" means a person appointed by the state
12 board in accordance with the provisions of K.S.A. 2006 Supp. 38-2218,
13 and amendments thereto. A person appointed as an education advocate
14 for a child shall not be: (1) An employee of the agency which is required
15 by law to provide special education or related services for the child; (2)
16 an employee of the state board, the department, or any agency which is
17 directly involved in providing educational services for the child; or (3) any
18 person having a professional or personal interest which would conflict
19 with the interests of the child.
- 20 (p) "Free appropriate public education" means special education and
21 related services that: (1) Are provided at public expense, under public
22 supervision and direction, and without charge; (2) meet the standards of
23 the state board; (3) include an appropriate preschool, elementary, or sec-
24 ondary school education; and (4) are provided in conformity with an in-
25 dividualized education program.
- 26 (q) "Federal law" means the individuals with disabilities education
27 act, as amended.
- 28 (r) "Individualized education program" or "IEP" means a written
29 statement for each exceptional child that is developed, reviewed, and
30 revised in accordance with the provisions of K.S.A. 72-987, and amend-
31 ments thereto.
- 32 (s) (1) "Related services" means transportation, and such develop-
33 mental, corrective, and other supportive services, including speech-lan-
34 guage pathology and audiology services, interpreting services, psycholog-
35 ical services, physical and occupational therapy, recreation, including
36 therapeutic recreation, social work services, school nurse services de-
37 signed to enable a child with a disability to receive a free appropriate
38 public education as described in the child's IEP, counseling services, in-
39 cluding rehabilitation counseling, orientation and mobility services, *be-*
40 *havior management and applied behavioral analysis which is provided by*
41 *a licensed or certified applied behavioral analyst* and medical services,
42 except that such medical services shall be for diagnostic and evaluation
43 purposes only, as may be required to assist an exceptional child to benefit

1 from special education, and includes the early identification and assess-
2 ment of disabling conditions in children.

3 (2) “Related services” shall not mean any medical device that is sur-
4 gically implanted or the replacement of any such device.

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

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

24 (v) “Evaluation” means a multisourced and multidisciplinary exami-
25 nation, conducted in accordance with the provisions of K.S.A. 72-986,
26 and amendments thereto, to determine whether a child is an exceptional
27 child.

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

32 (x) “Elementary school” means any nonprofit institutional day or res-
33 idential school that offers instruction in any or all of the grades kinder-
34 garten through nine.

35 (y) “Secondary school” means any nonprofit institutional day or res-
36 idential school that offers instruction in any or all of the grades nine
37 through 12.

38 (z) “Children with disabilities” means: (1) Children with mental re-
39 tardation, hearing impairments including deafness, speech or language
40 impairments, visual impairments including blindness, emotional distur-
41 bance, orthopedic impairments, autism, traumatic brain injury, other
42 health impairments, or specific learning disabilities and who, by reason
43 thereof, need special education and related services; and (2) children

- 1 experiencing one or more developmental delays and, by reason thereof,
2 need special education and related services if such children are ages three
3 through nine.
- 4 (aa) “Substantial change in placement” means the movement of an
5 exceptional child, for more than 25% of the child’s school day, from a
6 less restrictive environment to a more restrictive environment or from a
7 more restrictive environment to a less restrictive environment.
- 8 (bb) “Material change in services” means an increase or decrease of
9 25% or more of the duration or frequency of a special education service,
10 a related service or a supplementary aid or a service specified on the IEP
11 of an exceptional child.
- 12 (cc) “Developmental delay” means such a deviation from average de-
13 velopment in one or more of the following developmental areas, as de-
14 termined by appropriate diagnostic instruments and procedures, as in-
15 dicates that special education and related services are required: (1)
16 Physical; (2) cognitive; (3) adaptive behavior; (4) communication; or (5)
17 social or emotional development.
- 18 (dd) “Homeless children” means “homeless children and youths” as
19 defined in the federal McKinney-Vento homeless assistance act, 42
20 U.S.C. 11434a.
- 21 (ee) “Limited English proficient” means an individual who meets the
22 qualifications specified in section 9101 of the federal elementary and sec-
23 ondary education act of 1965, as amended.
- 24 Sec. 2. K.S.A. 2006 Supp. 72-962 is hereby repealed.
- 25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.