

## Cowley County Special Services Cooperative

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Date: February 18, 2013

From: Ronald L. Sarnacki, Ph.D., Director of Special Education

To: Honorable Representative Kelley and Members of the House Ed. Committee

Re: Opposition to HB 2263

Cowley County Special Services Cooperative and the six school districts it represents in south central Kansas **oppose** the use of public funds for private schools or schools not required to serve all students and schools that do not have to comply with the same rules and regulations as public schools under locally elected boards. We believe the following issues are not in the best interest of students with disabilities.

**1. HB 2263 appears to circumvent federal regulations regarding IEP's and public schools.**

HB 2263 says a participating public school is not required to abide by an IEP. HB 2263 also states that the parent and participating school will determine the educational plan for the student.

**2. HB 2263 appears to circumvent federal regulations regarding IEP's and private schools**

HB 2263 says a participating private school is not required to abide by an IEP and allows the state to permit children with disabilities to attend a private school under state law and use public funds while not requiring the private school to provide special education and related services in conformance with the students IEP.

**3. HB 2263 appears to circumvent 34 C.F.R. 300.148 and uses public funds to pay tuition to a private school.**

HB 2263 says that if a parent is dissatisfied with the student's progress, the parent can request scholarship funds to be awarded by the state department of education. These funds are subtracted from the state financial aid payable to the student's resident school district and used to pay tuition at a private school.

34 C.F.R. 300.148 does not require an LEA to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if that agency made FAPE available to the child and the parents elected to place the child in a private school or facility.

**4. HB 2263 appears to deny school district's due process rights**

HB 2263 requires district to use their state financial aid funds to help fund education of children with disabilities in a private school without showing that the district failed to provide a FAPE.

34 C.F.R. 300.148 says Local Education Agencies are not required to pay the costs of education at a private school or facility if it has made a FAPE available to the child. The school district has a due process right to defend its position in a hearing and to have a right to appeal to the court system.

Cowley County Special Services Cooperative and the six school districts it represents urge you not to move forward with HB 2263. Thank you for the opportunity to present written testimony.