



**Testimony before the Special Education and Related Services Funding Task Force
By Judith Deedy, Game On for Kansas Schools
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As a statewide grassroots public education advocacy group, we urge the task force to listen carefully to the informed school administrators, special education service providers and parents with children who depend on special education. The funding and provision of special education is complex, and we believe a task force such as this one is better equipped to handle the evaluation of these issues than a legislative committee. The agenda for today's hearing is extremely limited so we hope the task force will continue its work beyond 3:00 today. We offer a few points for your consideration.

Special education services are being provided, but they could be provided better with additional funding, which would benefit all SPED students. Districts do not have the option not to provide SPED, but additional funding could help them provide it better. Others will likely give you concrete examples but we have heard districts are having difficulty hiring enough special educators, and this could be alleviated if districts could offer higher pay. That is just one example—we're sure there are others.

Districts are using large amounts of general education funds to pay for unfunded SPED services. Increasing SPED funding would benefit all students. Most SPED students are also general education students and would benefit from districts being able to use their general education dollars for general education, and students who do not receive SPED services would benefit from the cessation of the cannibalization of general education funds. Underfunding SPED hurts all students.

SPED costs are rising, and districts have no way to avoid the consequences of rising costs and lack of federal and state funding. We have heard some argue that the problem is the lack of federal funding, and the state shouldn't be held responsible for an increasing share of SPED funding. We disagree. Fighting over blame is inappropriate and unproductive. Local districts don't have the option of not providing SPED, and they can't raise additional funds due to the caps on LOB funding. School board members have been lobbying federal officeholders to no avail. The state is primarily responsible for funding education, and it cannot leave SPED unfunded. It is also important to note that the state has increased districts' SPED requirements. For example, the legislature recently added dyslexia to the definition of SPED. So long as the provision of SPED services is mandated, the funding needs to be provided.

We would also like to rebut some arguments we've been hearing.

SPED funding wasn't litigated during Gannon because the legislature was funding SPED at about 92% when the case was filed. Plaintiffs can't litigate matters that aren't problems and can't raise issues at the appellate level that weren't raised at the trial court level. Although Gannon the case worked its way through the appellate process for years, plaintiffs weren't able to address SPED funding. The fact that the court didn't address it shouldn't be taken to mean the court would be satisfied with the current SPED funding situation.

Asking the legislature to abide by its statutory commitment to fund SPED at 92% of excess costs isn't "just asking for more money." No one is asking the state to fund beyond 92%. The increasing amount of funding requested isn't greed—it's an effort to provide the resources necessary to educate the children of Kansas. It is by definition linked to actual SPED costs incurred. The funding is to provide staffing and services for SPED which then allows general education funding to provide staff and services for the general education classroom.

LOB funding derived from state SPED funding is still local funding and should not count towards the calculation of 92% state funding. LOB funding was designed to allow districts to pay for extras not provided under the state formula. It was never meant to be mandated for use as SPED funding, let alone be counted as the state's share. LOB funding (except to the extent equalized by the state) is **local** funding, not state funding. Additionally, under statute, local districts are already responsible for 8% of excess costs. If we are to force spending LOB funds on SPED, they must count towards the local share, not the state share. This novel theory of tying the LOB funds derived from SPED is just that, novel. It wasn't part of the context when the legislature set the 92% of excess costs, and it's inappropriate to say we're still using the 92% but now we're counting additional categories of money to comply with the 92%. If we count the money differently, we should raise the 92% to a higher number.

Thank you for your consideration of these and other concerns relating to the funding of SPED in Kansas.