

Testimony
SB 363
Bob Runkel

SENATE EDUCATION
EXHIBIT NO. 4
DATE 2-18-05
BILL NO. SB-363

Senate Education and Cultural Resources
February 18, 2005
3:00 p.m., Room 303

As Senator Williams indicated, SB 363 was requested by the Office of Public Instruction to align state law with the Individuals with Disabilities Education Act and, where possible, provide the opportunity to reduce paperwork and provide general cleanup.

First, I will cover the sections of the bill that align state statute with the IDEA.

The effort to align statutes with the newly reauthorized IDEA occurs in two sections of the bill.

Section 2 on page 3, line 6, ensures that the duties of the superintendent of public instruction include ensuring that homeless children have access to special education programs.

Section 8 on pages 7 and 8 ensures that the appointment of surrogate parents will occur within the 30-day timeline that is now required in the IDEA. Current state law would allow up to 75 days passing before a surrogate parent must be appointed.

Surrogate parents are required under IDEA when a child is a ward of the state or the parent, or someone acting as a parent of the child, cannot be located.

The IDEA also requires the superintendent of public instruction to have supervisory authority over all special education programs in the state. However, an important step in the appointment process of a surrogate parent involves the youth court. The state superintendent has no supervisory authority over a youth court's actions. Therefore, the provision was added to have the school district's nominated individual become the surrogate by default if the youth court fails to act within 20 days of receiving the nomination. The above changes will ensure timelines are in compliance with the timelines in the newly reauthorized IDEA.

The second purpose of this bill is to provide the opportunity to reduce the paperwork burden on our teachers.

Section 1 and Section 6 substitute the current language of comprehensive evaluation or child study team with the term evaluation process or evaluation team.

The reauthorized IDEA provides opportunities for paperwork reduction. By removing our specific reference to "child study teams," we may be able to take better advantage of opportunities for paperwork reduction. Montana's current structure calls for the evaluation process to determine eligibility for special education to be done in one meeting and the special education program or "IEP" for the child to be developed in another meeting. The federal law does not require this separation of meetings. Removing reference to the Child Study Team will provide flexibility to the Office of Public Instruction as it looks for ways to help our system to be more efficient with meeting time and with paperwork.

The final purpose of this bill is cleanup language in the areas of tuition, transportation, and program approval.

Section 5 on page 5, line 12, removes the qualifier "by a state agency" to be consistent with the other provisions in tuition law. Under 20-5-321, it does not matter if the parent or the state makes the placement of the child in a group home or in a foster home in order for the county of residence to pay tuition. This amendment will make tuition laws consistent.

Section 10 repeals two statutes relating to transportation of students with disabilities.

These statutes duplicate existing requirements of federal law and state transportation law. The entitlement to transportation as a related service for a student with disabilities is already contained in federal law. State Statute 20-10-101 already defines a student with disabilities as an "eligible transportee" for state/county reimbursement purposes if the IEP identifies transportation as a related service.

Sections 2, 4, 7, and the repeal of 20-7-412 in section 10, remove reference to program approval by the Office of Public Instruction. These changes clarify that schools do not need approval of the Office of Public Instruction to provide a free appropriate public education to students with disabilities. Districts are already required to do so under IDEA.

Program approval is remnant of state laws pertaining to special education funding that were in place prior to the implementation of the current block grant funding formula. This provision should have changed years ago when the state finance laws were revised to distribute funds based on a block grant formula. Removing reference to program approval will align statutes with current practice.

The remaining cleanup language that is worth noting is found in Section 3 on page 4, line 4 through line 6. This provision was added to this section as a result of the repeal of 20-7-412 in Section 10. By placing the language of the repealed statute in Section 3, we will continue to allow school districts to permissively serve, but not require them to serve, special education students who are 19 years of age and under 22 years of age.

I am available if you have questions.

On behalf of Superintendent Linda McCulloch, we ask that you do pass SB 363.