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Chair Baumgardner and members of the Senate Education Committee:

Thank you for the opportunity to provide this informational briefing on the history and issues concerning the proposed change in terminology from “emotional disturbance” to “emotional disability.”

History

Last summer Representative Blake Carpenter and Leah Grim, a school social worker from Derby, contacted members of the Special Education and Title Services team at the Kansas State Department of Education (KSDE) to discuss implications that arise from Kansas's statutory use of the term “emotional disturbance.” My colleague, Mark Ward, and I talked with Representative Carpenter and Ms. Grim and discussed how Kansas could change the term, which is also used in Kansas State Board of Education (State Board) regulations, to describe this disability; thus changing how the term is used by Kansas school staff and families.

We discussed that while the term can be changed in Kansas without conflicting with federal statute(s) and regulations, which use the term “emotional disturbance,” KSDE would still be required to use the term when reporting data to the U.S. Department of Education. We clarified that the proposal would only change the language used to reference the disability, not the definition or the eligibility criteria for the disability category. We also recommended that this proposal be brought to the Special Education Advisory Council (SEAC) and the School Mental Health Advisory Council for further study. These councils both advise the State Board regarding topics of special education and school mental health, respectively. Finally, we outlined that KSDE does not have a position on this proposal, but provided this information to assist Representative Carpenter and Ms. Grim.

To further study implications of the proposal, Representative Carpenter scheduled a phone call with staff from the U.S. Department of Education, as well as KSDE staff. On this call, U.S. Department of Education staff indicated that they did not have a position or recommendation on this proposal, but provided information that other states have changed the term “emotional disturbance” in their state law.

Ms. Grim presented public comment to SEAC at its September 19, 2019, meeting. SEAC discussed the proposal at this meeting and requested Ms. Grim make a similar public comment to the School Mental Health Advisory Council, that KSDE staff and SEAC members research the language used for this disability by other states or suggested by national organizations, and that all report back at the November 5, 2019, SEAC meeting.

Ms. Grim presented public comment to the School Mental Health Advisory Council at its October 17, 2019, meeting. This Council discussed the proposal and elected to support SEAC in its study and work of this topic.

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At its November 5 meeting, SEAC discussed the information gathered regarding the terms used by other states and positions of national organizations. SEAC decided to convene a panel of Kansas experts to fully vet this proposal at its January 14, 2020, meeting, with a recommendation to the State Board to follow.

At its January 14 meeting SEAC voted to support changing "emotional disturbance" to "emotional disability" in Kansas statute and regulation. This followed the discussion with the panel of experts, which included representatives from the Kansas Association of School Psychologists, Kansas School Social Work Association, Kansas School Mental Health Advisory Council, and the State Interagency Coordinating Council.

Next week, at the February 11 State Board meeting, SEAC will present its recommendation that the State Board support this statutory change. SEAC will also recommend that if the Legislature changes this term in statute, that the State Board make a corresponding change to its impacted regulations. This recommendation is only a change in term, not a change in the definition or eligibility criteria for this disability category. The SEAC chair, Rebekah Helget, is also here today to testify in support of HB 2487.

The history of this proposal shows excellent collaboration and study first by Representative Carpenter and Ms. Grim, and then by multiple State Board councils working together with Kansas experts that resulted in this bill coming before you today.

Issues

KSDE does not anticipate any issues or consequences as a result of changing the statutory term "emotional disturbance" to "emotional disability." While KSDE must continue to use "emotional disturbance" in limited situations to meet its federal reporting requirements," this change allows KSDE, school staff, and Kansas families to change their terminology.

Thank you for the opportunity to provide this information. I am happy to stand for questions.

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