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LEGISLATURE of THE STATE of KANSAS
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IDEA AND SEECA

The chart below provides general background information on the federal individuals with educational disabilities act (IDEA) and notable differences provided in the Kansas special education for exceptional children act (Kansas act). Generally, IDEA guides how special education and services are made available in schools by ensuring a free appropriate public education in the least restrict environment to eligible children with disabilities. The state is required to follow IDEA and provides some additional requirements not obligated by IDEA which are noted in the “Kansas Law” column.

| | <u>Federal Law</u> Individuals with Disabilities Education Act (IDEA) | <u>Kansas Law</u> Special Education for Exceptional Children Act (SEECA) |
|-----------------|--|---|
| Citation | 20 U.S.C. § 1400 et seq. Part A—General Provisions (§§ 1400-1409). Part B—Assistance for Education of all Children with Disabilities (§§ 1411-1419). Part C—Infants and Toddlers with Disabilities (§§ 1431-1444). Part D—National Activities to Improve Education of Children with Disabilities (§§ 1450-1482). | <u>Statutes</u> Chapter 72, Article 34 of the Kansas Statutes Annotated. <u>Rules and Regulations</u> K.A.R. 91-40-1 through 91-40-53. |
| History | In 1972, legislation was introduced following two cases ¹ that establish the right to education for disabled children. IDEA was enacted in 1975 as the education for all handicapped children act (name changed in 1990). IDEA has been updated several times, most recently in 2004. | Enacted in 1974 to require school districts to implement special education programs by 1979 because only half of children with disabilities were receiving special education services. ² |

¹ *Pennsylvania Assn. for Retarded Children v. Commonwealth of Pennsylvania (PARC)*, 334 F. Supp 1257 (E.D. Pa. 1971) and *Mills v. Board of Education of District of Columbia*, 348 F. Supp 866 (D.D.C., 1972).

² Martinez, Dr. Sherrill and Lue Ann Snider, “A History of Kansas Education” (Kansas Department of Education 2001)

<https://www.ksde.org/Portals/0/Research%20and%20Evaluation/History%20of%20Kansas%20Education.pdf?ver=2017-08-18-125119-667>.

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| Related Laws | <p>Section 504 of the Rehabilitation Act was passed in 1973 and prohibits disability discrimination in programs that receive federal funding.</p> <p>In 1990, congress passed the Americans with disabilities act (ADA) to prohibit discrimination against people with disabilities.</p> | |
| Purpose | <p>To:</p> <ul style="list-style-type: none"> • Ensure that children with disabilities have a free appropriate public education that emphasizes special education and related services designed to meet their needs and prepare them for further education, employment and independent living; ensure that the rights of children with disabilities and parents of such children are protected; and assist states, localities, educational service agencies and federal agencies in the education of children with disabilities; • assist states in the implementation of a statewide, comprehensive, coordinated, multidisciplinary system of early intervention services for infants and toddlers with disabilities and their families; • ensure that educations and parents have the necessary tools to improve educational results for children with disabilities; and • assess, and ensure the effectiveness of, efforts to educate children with disabilities. <p><i>20 U.S.C. § 1400</i></p> | <p>“It is the purpose and intention of this act to provide for educational opportunities which will contribute to the development of each exceptional child in this state in accord with [such child’s] abilities and capacities.”</p> <p><i>1974 HB 1672 Sec. 1</i></p> |

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| Child Find | <p>School districts are required to identify, locate and evaluate all children with disabilities, even if the child is not attending a school of such school district. This requirement applies to children from birth through age 21, including children with disabilities who are homeless, wards of the state, attending private school, without regard to the severity of their disabilities and who are in need of special education and related services.</p> <p><i>20 U.S.C. § 1412</i></p> | |
| Eligibility | <p>A child that has at least one of the following:</p> <ul style="list-style-type: none"> • Autism; • Deaf-blindness; • Emotional disturbance; • Hearing impairment, including deafness; • Intellectual disability; • Multiple disabilities; • Orthopedic impairment; • Other health impairment; • Specific learning disability; • Speech or language impairment; • Traumatic brain injury; or • Visual impairment. <p><i>20 U.S.C. § 1401</i></p> | <p>Special education and related services provided to “exceptional children” which includes both children with disabilities and gifted children.</p> <p>“Children with disabilities” are the same as under IDEA.</p> <p>“Gifted children” are children who perform or demonstrate the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience, and environment.</p> <p><i>K.S.A. 72-3404; K.A.R. 91-40-1</i></p> |

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| Evaluations | <p>School districts are required to conduct a full and individual initial evaluation of a child before such child can receive special education and related services under IDEA.</p> <p>Either a parent, a school district or state agency may initiate a request for an initial evaluation.</p> <p>The initial evaluation shall determine whether the child is a child with a disability and what educational needs the child has.</p> <p>To qualify as a child with a disability, the child must meet two requirements: (1) Have a specific exceptionality; and (2) as a result of that exceptionality need special education and related services in order to access and make progress in the general education curriculum.</p> <p><i>20 U.S.C. § 1414</i></p> | <p>Before a child can be evaluated for special education and related services, general education interventions must be implemented, or the school must be able to demonstrate that such interventions are inadequate.</p> <p>A written evaluation report is required for all children who are evaluated for special education and related services, not just for those with a special learning disability.</p> <p><i>K.A.R. 91-40-7(c); K.A.R. 91-40-10(a)(1)</i></p> |
| FAPE | <p>States are required to provide each child a free appropriate public education (FAPE) at no cost to the families in a public school setting whenever possible that meet's the state's educational standards and the child's IEP.</p> <p><i>20 U.S.C. § 1412</i></p> | |
| LRE | <p>LRE means the placement closest to a regular education environment possible that is still capable of meeting the needs of the child with a disability.</p> <p><i>20 U.S.C. § 1412</i></p> | |

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| IEP | <p>Once a child is identified as eligible, IDEA requires schools provide special education services as outlined in the child’s individualized education program (IEP).</p> <p>An IEP is a written statement for each child with a disability that is developed, reviewed, and revised in accordance with IDEA.</p> <p>The IEP must include:</p> <ul style="list-style-type: none"> • A statement of the child’s present levels of academic achievement and functional performance; • a statement of measurable annual goals; a description of how the child’s progress toward meeting the annual goals will be measured; • a statement of the special education and related services and supplementary aids and services to be provided to the child; • an explanation of the extent, if any, to which the child will not participate in the regular class and activities; • the projected date for beginning services and anticipated frequency, location and duration of such services; and when the child is 16, appropriate and measurable postsecondary goals and the services needed to meet those goals. <p><i>20 U.S.C. § 1414(d)</i></p> | <p>The child’s IEP must include postsecondary goals and transition services necessary to achieve such goals beginning at the age of 14 instead of age 16.</p> <p><i>K.S.A. 72-3429</i></p> |
| Procedural Safeguards | <p>Procedural safeguards include:</p> <ul style="list-style-type: none"> • Independent educational evaluations; • prior written notice; • parental consent; | <p>Parental consent is required if there is a substantial change in placement or material change in services.</p> |

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| | <ul style="list-style-type: none"> • access to education records; • the opportunity to present and resolve complaints through the due process complaint and state complaint procedures; and • the availability of mediation <p>A copy of the procedural safeguards must be provided to parents once per school year and a copy must also be given to parents upon initial referral or parent request for an evaluation; upon receipt of the first state complaint and first due process complaint in a school year; in accordance with the IDEA’s discipline procedures; and upon request by a parent.</p> <p><i>20 U.S.C. § 1415</i></p> | <p>A parent may appeal the written decision of the complaint investigator.</p> <p>Special education due process hearing officers are required to be licensed attorneys.</p> <p><i>K.S.A. 72-3430; K.A.R. 91-40-29(b)(1)(A)</i></p> |
| Private Schools | <p>Children with disabilities in private schools and facilities are provided special education and related services, in accordance with the IEP, at no cost to their parents, if such students are placed in such school or facility by the state or school district as a means of carrying out the requirements of law.</p> <p>If the school district made a free appropriate public education available to the child and the parent places the child in a private school or facility, the school district is not required to pay for the cost of education of a child with a disability at such private school or facility.</p> <p><i>20 U.S.C. § 1412(a)(10)</i></p> | <p>Exceptional children who attend private school may have an IEP upon request.</p> <p><i>K.S.A. 72-3404(g)</i></p> |

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| Funding | <p>The IDEA grants to states program provides grants to states in meeting the excess costs of providing special education and related services to children with disabilities.</p> <p>Funds are allocated first in an amount equal to the amount that a state received for fiscal year 1999. If the total program appropriation increases over the previous year, 85% of the remaining funds are allocated based on the number of children in the general population in the age range for which the state guarantees FAPE to children with disabilities and 15% of the remaining funds are allocated based on the number of children living in poverty that are in the FAPE age range.</p> <p>IDEA also requires each state to maintain its level of state financial support for special education and related services from year to year.</p> <p><i>20 U.S.C. § 1411</i></p> | <p><u>Special Education State Aid</u></p> <p>Special education state aid is provided to school districts to assist with the costs of providing special education and related services required by IEPs that are over and above the regular education that all students are entitled to receive. Special education state aid is provided for the following four types of special education expenditures distributed in the following order:</p> <ul style="list-style-type: none"> • Medicaid replacement state aid; • Catastrophic state aid; • Transportation aid; and • Special education teacher aid. <p>The state board determines the amount of special education state aid each school district shall receive for the next school year based on the statutory calculation. Special education state aid is reimbursement for statewide excess costs. School districts are entitled to receive special education state aid at a rate of 92% of the statewide excess costs.</p> <p><i>K.S.A. 72-3422</i></p> <p><u>Special Education and Related Services Weighting</u></p> <p>The weighting is determined by dividing the amount of special education state aid a district receives pursuant to K.S.A. 72-3422 by the BASE aid amount for the current school year.</p> <p><i>K.S.A. 72-5157</i></p> |

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| State Advisory Panel | <p>State is required to establish and maintain an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state.</p> <p><i>20 U.S.C. § 1412(a)(21)</i></p> | <p>State advisory council for special education established to advise the state board of unmet needs within the state in the education of exceptional children, development of evaluations and reporting on data to the federal government, developing corrective action plans to address findings identified in federal monitoring reports and developing and implementing policies relating to the coordination of services for exceptional children.</p> <p><i>K.S.A. 72-3408</i></p> |