MISSOURI COUNCIL OF ADMINISTRATORS OF SPECIAL EDUCATION
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TO: Governor Jay Nixon
FROM: Missouri Council of Administrators of Special Education (MO-CASE)
SUBJECT: Veto Request - HB 42
DATE: May 25, 2015

The Missouri Legislature recently passed Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for HB 42. While this bill began as a simple four page bill designed to help address the complex and significant challenges surrounding implementation of the student transfer law, it is now a 168 page bill addressing a cornucopia of education issues.

Sadly HB 42 does little to mitigate the devastating problems of districts paying tuition for students transferring out which is not surprising given the minimal time and attention spent on finalizing the bill language. The conferenced version of the bill was passed less than 24 hours after the conference committee report was issued absent a fiscal note to describe financial implications. An issue of this magnitude requires extensive time to get right – and unfortunately the General Assembly did not take the time needed. With HB 42, there is significant risk that Normandy and Riverview Gardens will go bankrupt or will teeter on the brink of fiscal insolvency and continue to shortchange the students who remain in the district.

While you have certainly heard from many education organizations and seen newspaper editorials about major concerns with the bill, as special education administrators we would like to identify some concerns specific to students with disabilities that warrant your consideration of a veto decision.

As you are aware, Special School District of St. Louis County (SSD) provides special education services for all IDEA eligible students in St. Louis County. As such, when an IDEA eligible student transfers from Normandy or Riverview Gardens to another St. Louis County school, SSD continues to be legally responsible for special education.

However for students who transfer to schools outside of St. Louis County, the receiving district currently has no clear guidance on who is legally responsible for IDEA procedures and due process. HB 42 fails to address any issues related to who is legally responsible for the provision of a free, appropriate education under the IDEA for transfer students – the district of residence paying tuition or the district receiving the student and providing special education services. HB 42 only provides clarification on this issue for one district, the metropolitan district in Missouri, in which that district does retain legal responsibility for any IDEA eligible students who transfer. Without clarification in statute, all other districts will be left open to costly and divisive litigation to resolve this issue.

Not only does HB 42 fail to address the critical problems of the transfer law, it also expands several special interest programs that increase bureaucracy and divert scarce public resources away from public schools to unaccountable, for-profit schools. One of these provisions allows Missouri students in certain areas of the state to choose to attend a virtual school, including those run by private providers outside of Missouri, and requires a local public school district to pay the tuition for the student to attend – creating in essence a voucher program for unaccountable private virtual schools that are not even located in Missouri.

Special education has long been a pioneer in providing virtual education when that term meant the local telephone company providing a land-line audio link to a classroom for a medically fragile student to hear classroom instruction at home. Today's virtual education can be exceptionally beneficial for students with disabilities provided there is accountability to ensure accessibility and quality instruction. Far too many commercial virtual education providers do not utilize a fully accessible online platform for delivery of instruction which effectively excludes many students with disabilities, especially those who use assistive technology. Requiring a local school district to pay for an inaccessible virtual education program with public funds is tantamount to sanctioning discrimination with tax dollars and must not be allowed.

HB 42 also includes provisions related to dyslexia. While MO-CASE supports efforts to address the educational needs of students with reading deficits caused by dyslexia or other conditions, Section 633.420 of HB 42 refers to a student who "suffers from dyslexia". Since the disability rights movement culminated in the passage of the ADA,

the disability community has unequivocally stated that disability is a just a natural part of the human experience that should never be negatively referred to as “suffering”. The Yale Center for Dyslexia and Creativity goes to great lengths to identify the positive aspects of having a dyslexic brain. Using this wording in state law would be an embarrassment to Missouri as it is inappropriate and offensive to people with disabilities.

HB 42 does not solve school transfer problems and diverts public funds to private schools just as SB 493 did last year. On behalf of the almost 1,000 special education administrator members of MO-CASE, we respectfully request that you veto Conference Committee Substitute for Senate Committee Substitute for House Committee Substitute for HB 42.