

Commissioner's Advisory Panel for Special Education Services February 28 – March 1, 2019 Meeting Minutes

The Commissioner's Advisory Panel (CAP) for Special Education Services held its scheduled winter meeting on February 28 – March 1, 2019 at the New York State Education Department (NYSED) building.

Members Present February 28, 2019:

Lynnette Aqueron, Kimberly Black, Naomi Brickel, Edward Escobar, Jacqueline Frey, Jacqueline Harris, Chris Kus, Namita Modasra, Matthew Nelson, James Nolan, Ora Perkins, Lori Podvesker, Vicki Prager, Lynn Radicello, Eric Rosser, Mara Vanderzell, Danielle Williams

Members Present March 1, 2019:

Lynnette Aqueron, Kimberly Black, Naomi Brickel, Timothy Bromirski, Edward Escobar, Jacqueline Frey, Jacqueline Harris, Chris Kus, Namita Modasra, Eileen Murtha, Matthew Nelson, James Nolan, Lori Podvesker, Vicki Prager, Lynn Radicello, Eric Rosser, Mara Vanderzell, Danielle Williams

MOTION FOR ACTION BY MEMBERS

November 2018 CAP Meeting Minutes

MOVED, that the November 2018 CAP meeting minutes be amended to record the appointment of Jacqueline Harris as the CAP Secretary.

MOVED, that the amended November 2018 CAP meeting minutes be approved.

In accordance with the CAP By-laws, because the quorum fell below fifty percent, both motions were passed using a two-thirds majority vote of members present. The motions passed unanimously.

PUBLIC COMMENT

The New York Council of Administrators of Special Education's (NYCASE) Legislative Committee provided members public comment. NYCASE recommended that the draft NYSED teacher certification table presented at the November 2018 CAP meeting be revised to simplify the language to make it more concise and easier to interpret. NYCASE stated their position that more work needs to be done to address the teacher shortage to secure a pool of qualified special education teachers. NYCASE also commented on NYSED's decision to replace the Early Childhood Direction Centers and Special Education Parent Centers with Early Childhood and School Aged Family and Community Engagement Center and raised concerns about decreased staffing levels and indicated that the changes were made without public input. NYCASE recommended that the current level of services be monitored regarding an adequate level of support for families.

ITEMS FOR DISCUSSION

Member Sharing - Input on Unmet Needs Within the State in the Education of Children with Disabilities [[CAP By-laws, Responsibilities A.1.](#)]

Anne Louise Thompson from the National Center for Systemic Improvement (NCSI), funded through the United States Department of Education's Office of Special Education Programs (OSEP), facilitated member sharing of concerns, challenges or unmet needs within their region of the State from their constituent groups, networks and/or own experiences. The following were identified by members as the top priority areas of need within the State:

- Teacher recruitment/retention – need for appropriately qualified teachers in special education classrooms;
- Changes to the Parent Centers and Support Networks; and
- Need for quality inclusive programming/serving students in the least restrictive environment.

Reporting of Data under 618 of the Individuals with Disabilities Education Act: Federal Fiscal Year (FFY) 2017 Part B State Performance Plan (SPP)/Annual Performance Report (APR) [[CAP By-Laws, Responsibilities A.4.](#)]

NYSED staff reviewed preliminary data and information included in NYS's FFY 2017 Part B SPP/APR, submitted to OSEP on February 1, 2019. This data and information, considered preliminary during OSEP's clarification period, will be finalized by June 2019. Discussion focused on the explanation of progress or slippage toward NYS's SPP targets. The following were identified by members as the top priority areas regarding the unmet needs or areas needing more clarification relating to FFY 2017 Part B SPP/APR:

- Challenges with the data due to sampling and the need for more data and information on what is happening with students with disabilities across the State;
- How issues are brought to CAP's attention (e.g., restructuring of the networks); and
- The State is not meeting the needs of students who have minority classification (e.g., African American/Hispanic). Recommend data for all indicators be broken out by race/ethnicity.

CAP Restructuring

CAP members continued their discussion from the November meeting regarding the restructuring of CAP to provide the members greater voice and align meetings to the CAP responsibilities as outlined in the CAP By-laws and NYS Public Officers Law requirements for open meetings. Anne Louise Thompson from NCSI, who is providing NYSED technical assistance on ways to better structure CAP, facilitated a discussion and member input on the following areas: 1.) Roles of CAP members and State staff; 2.) Frequency and timing of meetings; 3.) Structure of meetings; 4.) Use of subcommittees; 5.) Agenda format; and 6.) Other ideas about CAP restructure. Due to time limitations, members were informed that they would be asked to provide additional feedback by email.

Comment on the Distribution of Federal Funds – Federal Fiscal Year 2019 [[CAP By-Laws, Responsibilities A.3.](#)]

NYSED staff presented on the submission of New York State's (NYS) Annual State Application Under Part B of the Individuals with Disabilities Education Act (IDEA) for Federal Fiscal Year 2018, due May 17, 2019, including public participation requirements and CAP's responsibility to comment on the procedures for distribution of use of funds under Article 89 of Education Law and Part B of IDEA. Members were provided information on NYSED's projected IDEA Part B, Section 611 (for children ages 3 through 21) and Section 619 (for children ages 3 through 5) grant awards the 2019-20 school year and the breakdown of administrative set-aside funds.

CAP members questioned how IDEA funds are allocated and used at the district level and in other offices in NYSED and recommended that a user guide on 611 and 619 grant funds be developed for school districts. CAP members also recommended requesting a State contribution from the legislature for State level special education activities. Members indicated that NYSED should have obtained stakeholder input on the changes to network funding and that IDEA administrative set-aside funds should be used to support technical assistance and innovative programming. The CAP Executive Board will draft public comment on behalf of CAP and send the draft to members for review prior to submission to NYSED.

Advise NYSED on Developing and Implementing Policies relating to the Coordination of Services for Children with Disabilities: Update on New York State's Due Process System [[CAP By-laws, Responsibilities A.6.](#)]

OSE staff provided members with an update on New York State's Due Process system, including Statewide expansion of individualized education program Facilitation in 2020 at no cost to parents and districts; increasing outreach to parents and districts regarding mediation and strengthening the training of special education mediators to address underutilization; and data on due process complaints. As of February 25, 2019, NYS had 7,412 open due process complaints Statewide (7,216 requests in New York City (NYC) and 196 requests for rest of the State). OSE staff discussed concerns regarding the increasing volume of due process complaints in NYC and the decrease in the number of impartial hearing officers available to hear cases in NYC and reviewed NYSED's actions taken and actions planned to address these concerns.

Members participated in a root cause activity and the results will be shared out at the May 2019 CAP meeting.

PRESENTATIONS

Federal and State Policy Updates

OSE staff provided updates on the following special education policy issues:

- Issuance of field memoranda relating to [Parental Consent for the Use of Public Benefits or Insurance Pursuant to IDEA](#) and [Guidelines for Determining a Student with a Disability's Need for a 1:1 Nurse](#);
- [Quarterly Webinars for State Advisory Panels and State Interagency Coordinating Councils](#);
- OSE participation in technical assistance sessions with OSEP funded technical assistance providers on issues relating to significant disproportionality; State Complaints; NYS's State Systemic Improvement Plan; and CAP Redesign;
- OSEP's [January 29, 2019 Policy Letter to Nathan](#) relating to discipline protections for children not yet determined eligible for special education; and
- Upcoming release of policy briefs relating to eligibility criteria for participation in the NYS Alternate Assessment, mediation, and manifestation determinations and updates to the *Parent's Guide to Special Education* and the *Blueprint for Improved Results for Students with Disabilities*.

Discussion with the Assistant Commissioner of Special Education

Assistant Commissioner Christopher Suriano reported out on OSE initiatives to drive improvements and outcomes for students with disabilities. Significant changes have been implemented to the OSE structure to increase targeted work. OSE will be conducting coordinated intervention in the 43 districts identified under IDEA to facilitate systematic change in these schools with staff and network support. OSE will be implementing corrective action plans for districts who have been identified under IDEA for eight or more consecutive years for either compliance or performance.

CAP members raised concerns regarding the lack of stakeholder input on changes to the OSE networks and the elimination of the ECDCs and Special Education Parent Centers. Assistant Commissioner Suriano discussed restrictions on the OSE to discuss the network Request for Proposals due to the procurement process and provided information on the stakeholder engagement as related to the State Systemic Improvement Plan which informed the network redesign. He reviewed the structure of the new networks and how this will allow OSE to support more families and students, build capacity in school districts to ensure they are meeting their responsibilities under IDEA, and promote meaningful family involvement within the educational system.

May 2019 Meeting Agenda

OSE staff will collaborate with the CAP Executive Committee on development of the agenda for the May 2019 meeting, in consideration of the members' discussion of unmet needs within the State on the education of children with disabilities.