

**Commissioner's Advisory Panel for Special Education Services  
May 17-18, 2018  
New York State Education Department, Albany, New York  
Meeting Minutes**

AGENDA ITEM	KEY POINTS DISCUSSION/RECOMMENDATIONS	NEXT STEPS
<b>Welcome and Get Organized</b>	<ul style="list-style-type: none"> <li>❖ Introduction of members and call to order. <ul style="list-style-type: none"> <li>• New York State Education Department (NYSED) staff reviewed agenda.</li> <li>• Members were provided the following 2018-19 Commissioner's Advisory Panel (CAP) dates and informed that the CAP meetings for 2018-19 will again be held at the NYSED Education Building, Albany, NY: <ul style="list-style-type: none"> <li>➢ November 8-9, 2018</li> <li>➢ February 28-March 1, 2019</li> <li>➢ May 30-31, 2019</li> </ul> </li> </ul> </li> <li>❖ Members were reminded of parking available near the Education Building.</li> </ul>	NYSED staff e-mailed CAP members 2018-19 meeting dates again as a reminder
<b>February Minutes</b>	Motion called to accept the February 2018 minutes. A request was made to amend the minutes to reflect the recommendation made at the February meeting that CAP write a letter to support off-grade testing for students with disabilities as part of the ESSA Waiver discussion. Motion made to approve the minutes with the amendment and seconded. Motion carried. Minutes were approved.	NYSED staff posted amended February 2018 minutes to NYSED website
<b>Public Comment</b>	There was no public comment submitted or provided.	
<b>State Policy Updates</b>	<ul style="list-style-type: none"> <li>❖ NYSED's Office of Special Education's (OSE's) new Director of Special Education Services, Samuel Zimmerman was introduced.</li> <li>❖ OSE staff provided a PowerPoint on Policy Updates, presented information, and responded to member questions regarding: <p><b>Changes relating to the Superintendent Determination Option</b> - Permits students with disabilities, on or after December 12, 2017, to meet English language arts (ELA) and/or Mathematics Regents examination eligibility condition(s) by earning the Career Development and Occupational Studies (CDOS) Commencement credential. For purposes of Superintendent Determination eligibility for the 2017-18 and 2018-19 school years only, districts may award the CDOS Commencement Credential to students with disabilities who have not met all requirements. Public comment accepted until May 25, 2018.</p> <p><b>Teacher Certification</b></p> <ul style="list-style-type: none"> <li>• <b>Proposed amendment to Section 80-4.3 relating to grade-level teaching extensions</b> - Additional revisions adopted at April 2018 Board of Regents (BOR) meeting to allow submission of satisfactory evidence of at least three years of teaching experience in school districts, State-supported or State-operated schools, approved private schools, or Boards of Cooperative Educational Services (BOCES); and new grades 10-12 extension for teachers holding a student with disabilities generalist certificate in grades 5-9.</li> <li>• <b>Proposed amendment of subpart 80-3 and section 80-4.3</b> – Public comment accepted until June 25, 2018. At April 2018 BOR meeting, NYSED proposed two options for students with disabilities generalist in grades 7-12 certificate that are assigned to teach special classes but do not hold the appropriate subject area certificate(s). <ol style="list-style-type: none"> <li>1. Statement of continued eligibility (SOCE) in areas of biology, chemistry, earth science, ELA, mathematics, physics, and social studies – at least three years of full-time teaching experience in grades 7-12 on or before July 1, 2019 during which they are considered Highly Qualified in one or more subject areas through the HOUSSE (high objective uniform State standard of evaluation) rubric.</li> <li>2. Limited extension for teachers who do not qualify for SOCE – certified for a limited time in one or more subject areas while they complete additional coursework (up to 18 semester hours) required for certification in subject areas of biology, chemistry, earth science, ELA, mathematics, physics, and social studies.</li> </ol> </li> </ul> </li> </ul>	NYSED will share organizational chart for OSE, when available, as requested by a member

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	<p><b><u>CAP Members' Comments, Questions, and/or Recommendations:</u></b></p> <ul style="list-style-type: none"> <li>Concerned about consideration of public comment on proposed changes to coursework, extensions and teaching experience, and capacity of BOCES to review applications for new certification pathways. (NYSED staff provided clarification on the public comment process. Members were encouraged to submit any comments they have on the proposed changes during the 60-day comment period.)</li> </ul> <p><b>Chapter 32 of the Laws of 2018</b> – Replaces Zachary's Law (discussed at February 2018 CAP meeting). Requires districts to establish policy and procedures to allow all students who earn a CDOS Commencement Credential and Skills and Achievement Commencement Credential to participate in graduation activities.</p> <p><b>New York State's Annual Part B Application under Part B of IDEA</b> – NYS's Part B Application for the federal fiscal year 2018 was submitted to the federal Office of Special Education Programs (OSEP). The application includes identification of all laws and regulations where NYS exceeds federal requirements.</p> <p><b>Upcoming</b> – Updated guidance on Superintendent Determination option, Chapter 32 field memorandum, learning disabilities guidance document, policy brief on eligibility criteria for participation in the New York State Alternate Assessment, and Parents' Guide to Special Education.</p> <p>❖ OSE staff provided a PowerPoint on <b>State Systemic Improvement Plan (SSIP) Indicator 17 Update</b></p> <ul style="list-style-type: none"> <li>State Identified Measurable Result (SIMR) focuses on students with learning disabilities (LD) in grades 3-5 in 15 schools in 3 regions of the State. Pilot schools are representative of types of schools throughout the State (rural, urban, etc.). NYSED will use Transformation Zone approach to scale up SSIP to rest of State in subsequent years.</li> <li>NYSED will support schools in development or refinement of Multi-tiered Systems of Support (MTSS) framework in kindergarten through grade 5 to improve literacy outcomes for students with LD and ensure more appropriate identification of students with LD. Establishing MTSS implementation tools and protocols specific for use at the elementary level.</li> </ul> <p><b><u>CAP Members' Comments, Questions, and/or Recommendations:</u></b></p> <ul style="list-style-type: none"> <li>Questions regarding the 15 pilot schools and students that are focus of SIMR - How were schools selected? Does population of LD students include English language learners (ELLs)? Where are these students placed (e.g., general education classrooms or special classes (NYSED response: Statistical analysis, stakeholder input school capacity, and willingness to engage were used to select the pilot schools. Population of students includes ELLs. Students are typically in general education, but also special classes. In process of determining what MTSS will look like in schools)</li> <li>Are other NYSED offices involved in this initiative and in supporting the pilot schools? (NYSED response: Yes (e.g., the Offices of Curriculum, Bilingual Education and World Languages, Accountability, etc.). These offices are part of the State leadership team.)</li> <li>Commend NYSED on SSIP as initiative which can be replicated across the State; glad to hear that 15 districts were willing to engage "collaboratively" in this initiative; and support including a private school in the pilot. (NYSED response: Districts will be required to sign a memorandum of understanding. Want to recognize pilot schools that will be informing NYSED's work.)</li> <li>Members requested additional information on Transformation Zone research.</li> </ul>	<p>CAP members were encouraged to review the exceeds chart.</p> <p>NYSED staff sent members information on Transformation Zone research</p>

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<b>Information Sharing</b>	Members shared information about issues and events in their region of the State.	
<b>Dispute Resolution</b>	<p>❖ OSE staff provided a PowerPoint presentation on <b>Special Education Dispute Resolution in New York State</b> (2-tier dispute resolution state) and received member recommendations regarding dispute resolution:</p> <p><b>Mediation</b> - There is a relatively small use of mediation in NYS. Data comes from the NYS Dispute Resolution Association (NYS DRA), which is under contract with OSE. Mediation is successful when used. NYS will be contacting other states to inquire about outreach used to increase the use of mediation.</p> <p><b>CAP Members' Comments, Questions, and/or Recommendations:</b></p> <ul style="list-style-type: none"> <li>• Share information about mediation through informational packets to parents before or at committee on special education meetings, newsletters, news sources and blogs; place contact information for mediation centers in the prior written notice (PWN); develop a "Parent's Guide to Mediation."</li> <li>• Provide guidance to field and parents on mediation process and purpose. Important for parents to know that both parties must agree to mediation and that mediation is at no cost to them. Some families are unaware that mediation is available. Increase outreach to parents in disadvantaged neighborhoods.</li> <li>• Misperception that mediators have a bias toward schools.</li> <li>• Parents see mediation as a barrier to an impartial hearing.</li> </ul> <p><b>Due Process Complaint -</b></p> <ul style="list-style-type: none"> <li>• Impartial Hearing Officers (IHOs) are independent contractors, not employees of NYSED. IHOs are trained and certified by NYSED and paid for by school districts.</li> <li>• NYSED staff shared the following data on impartial hearings: <ul style="list-style-type: none"> <li>➢ 4,436 currently open impartial hearings – 4,268 in New York City (NYC) and 168 in districts outside NYC (Majority of hearings in NYC involve private school tuition reimbursement.)</li> <li>➢ Extensions to hearing timelines was a factor in OSEP's site visit – In 2015-16 school-year, 88 percent of IHO's requested an extension.</li> </ul> </li> </ul> <p><b>CAP Members' Comments, Questions, and/or Recommendations:</b></p> <ul style="list-style-type: none"> <li>• What is compensation rate for IHOs and what rate do other states use? (NYSED response: Compensation rate for IHOs has not increased since 2001 (\$100.00/hour). NYC has lower rate, as NYCDOE impartial hearing office assumes certain responsibilities for which IHOs in the rest of State are responsible.)</li> <li>• What are issues that lead to impartial hearings and mediation? Recommend this be used to determine when to encourage parties to go to mediation. (NYSED response: In order of frequency: other reimbursement, individualized education program (IEP) program, tuition reimbursement, transportation issues, placement, evaluation issues, independent educational evaluations, other, issues related to disability, and general procedures. Top five reasons for mediation: IEP program, number of related service sessions, placement, evaluation, and discipline)</li> <li>• Is there a minimum number of cases IHOs must take per year? Can IHO be removed from list for not taking cases? (NYSED response: There is no minimum; however, NYSED may revoke privileges of an IHO if he/she has not heard/accepted a case in two years.)</li> <li>• How is data used to inform the work of the office? (NYSED response: NYSED has a number of initiatives in place to address data: NYC study, two-tier workgroup, meetings with management.)</li> </ul>	NYSED staff sent members link to the CADRE website

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	<ul style="list-style-type: none"> <li>• Recommend using satisfaction surveys of parties</li> <li>• Parents have incentive to extend hearing to keep child in pendency placement. (NYSED: IHO would need to determine if there is a valid reason to extend.)</li> <li>• What are IHO qualifications? Should NYS consider using non-attorneys to increase the number of IHOs who can hear cases (NYSED response: Requirements are established in regulations. Must be an attorney unless grandfathered in (only 6 non-attorneys in the State).)</li> </ul> <p><b>IEP Facilitation Pilot Program</b> [3-year pilot (9/1/15 – 8/31/18) available to all Long Island districts and some NYC districts]</p> <ul style="list-style-type: none"> <li>• 24 IEP facilitators trained by a NYSED contracted trainer; Total IEP facilitation requests to date = 47; Total IEP facilitated meetings held = 36.</li> <li>• Pilot will continue one more year using current facilitators. NYSED is considering the following post-pilot options: 1) Use current IEP facilitators and open to districts Statewide; 2) Build capacity of NYSED and network staff to support districts in holding successful IEP meetings; 3) Establish a new State-sponsored Statewide Facilitation IEP (F-IEP) program; 4) Train district staff in IEP facilitation.</li> <li>• NYSED staff asked members for recommendations regarding post-pilot options.</li> </ul> <p><b><u>CAP Members' Comments, Questions, and/or Recommendations:</u></b></p> <ul style="list-style-type: none"> <li>• Train facilitators in Regional Special Education-Technical Assistance Support Centers on IEP facilitation.</li> <li>• Make IEP facilitation a required training for all Committee on Special Education Chairpersons</li> <li>• Offer IEP facilitation in other parts of the State. May work where tuition reimbursement is not an issue.</li> <li>• Provide Statewide uniform training (e.g., podcasts).</li> </ul>	
<b>Term “Students with Disabilities”</b>	<ul style="list-style-type: none"> <li>❖ OSE staff asked CAP members about their recommendations for the term “Students with Disabilities” and if NYS should continue to use this term. OSEP uses “Children with Disabilities.” NYSED upper management is proposing term “Students Who Are Differently Abled.”</li> <li>• NYSED staff provided members with feedback from the Youth Advisory Panel (YAP) and BOCES Directors when asked about changing the term.</li> </ul> <p><b><u>CAP Members' Comments, Questions, and/or Recommendations:</u></b></p> <ul style="list-style-type: none"> <li>• Pros: Words matter; “disability” can have negative connotation; if all students are not labeled, we should not label any; term “disability” does not recognize that students have areas of strength; term “disability” is associated with low expectations and opportunities.</li> <li>• Cons: Students have certain rights and protections associated with term “disability”; there is nothing wrong with being “disabled;” would be a disservice to students to remove the title when students have been taught to advocate for themselves based on this term; must be careful not to water down the terms that promote equity; system works because there is litigation and regulations that provide protections based on this term; focus on changes to term takes away from important work that needs to be done; concerned change would make NYS inconsistent with federal terminology; term ensures students get what they need even if it makes some individuals uncomfortable; term enables equity and provides mechanism to protect students; some individuals will have same mindset no matter what term is used; change would contribute to marginalization of students.</li> <li>• Concerned that documents coming from the BOR have already changed the term.</li> <li>• Other terms suggested to replace “students with disabilities:” “Students with Diverse Learning Needs;” “Children with Special Educational Needs;” “Students with a Classification;” “Students with Exceptionalities.”</li> </ul>	

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	<p><b>CAP Motion:</b> Motion called to vote on proposal to change term “Students with Disability” to “Students Who Are Differently Able”. Motion seconded. Unanimous vote to keep the term “Students with Disabilities.” Motion carried.</p>	
<b>Provider Management System</b>	<ul style="list-style-type: none"> <li>❖ NYSED Rate Setting staff and GCOM Software Consultants provided information on the Provider Management System for approved programs serving students with disabilities: <ul style="list-style-type: none"> <li>• Trying to ensure that there are enough services available for students with a disability who need services, and monies are being used to maximum benefit</li> <li>• Legislature provided funding to create a central technology center (Provider Management System) to improve NYSED’s ability to collect, use, and disseminate programmatic and fiscal information relating to the provision of special education by approved special education providers in NYS.</li> <li>• NYSED will need to decide what information needs to be migrated; “real time” information to be provided (e.g., seat availability); other unique provider information for schools and parents to make informed decision; and link to school’s website.</li> <li>• NYSED staff asked CAP feedback on how our website could be more “user” friendly.</li> </ul> </li> </ul> <p><b>CAP Members’ Comments, Questions, and/or Recommendations:</b></p> <ul style="list-style-type: none"> <li>• Parents are using website to go “school shopping.”</li> <li>• NYS is losing many schools and there are more appropriate schools out of State.</li> <li>• Obtain input of 853 approved private schools, special act school districts and the 4410 programs on development of Provider Management System.</li> <li>• Does system have ability to see if schools are available in a certain region?</li> <li>• Would be useful to have information about the programs schools offer.</li> <li>• Current website is not always up to date.</li> <li>• Information on schools that are more inclusive.</li> <li>• Website should not be used to market programs.</li> <li>• Would be helpful, especially for new CSE Chairs to have information on school data, other metrics, vacancies.</li> </ul>	
<b>CAP Accomplishments and Goals</b>	<ul style="list-style-type: none"> <li>❖ OSE staff reviewed CAP accomplishments for 2017-18.</li> <li>❖ CAP members were asked for recommendations for topics for the 2018-19 CAP meetings: <ul style="list-style-type: none"> <li>• Teacher Certification – discussion on culturally responsive pedagogy</li> <li>• Alternate pathways to receive a NYS diploma</li> <li>• Teacher assistant/paraprofessional guidance for administrators</li> <li>• Behavior management/supports</li> <li>• Diploma data – discussion as to whether changes to diploma requirements are making a difference</li> <li>• ACCES-VR – impact of Workforce Innovation and Opportunity Act on services</li> <li>• Assistive technology</li> <li>• Criteria for NYS Alternate Assessment</li> <li>• Continuum of Services (e.g., alternative therapies such as music and art therapy)</li> <li>• Inclusive programs/best practices</li> <li>• Career and Technical Education for students with disabilities</li> <li>• Youth employment services/transition planning</li> </ul> </li> </ul>	CAP Annual Report was posted to the NYSED website

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	<ul style="list-style-type: none"> <li>• NYSED Special Education Quality Assurance monitoring</li> <li>• Follow-up discussion on dispute resolution</li> <li>• Follow-up on Significant Disproportionality</li> <li>• Federal monitoring – where NYS is not meeting targets and discussion of what can be done to address issues</li> </ul> <p>❖ NYSED will be proposing systemic changes to the structure of CAP for discussion at next year’s meetings.</p>	
<b>Learning Disabilities Legislation</b>	<p>❖ OSE staff provided a PowerPoint presentation on “Students with Disabilities Resulting from Dyslexia, Dysgraphia, and Dyscalculia in New York State” and responded to member questions and comments.</p> <ul style="list-style-type: none"> <li>• Chapter 216 of the Laws of 2017 - Governor directed NYSED to issue guidance on these terms by August 2018</li> <li>• NYSED convened statewide group of stakeholders representing various perspectives and constituencies in March 2018 to advise Department on the development of guidance to be issued in August 2018.</li> <li>• NYSED will be developing a survey related to the educational needs of students with learning disabilities, to disseminate to field and families. Students can respond to the survey.</li> </ul> <p><b><u>CAP Members’ Comments, Questions, and/or Recommendations</u></b></p> <ul style="list-style-type: none"> <li>• MTSS is general education initiative – needs to include special education students.</li> <li>• Similar to MTSS, data in special education should drive the decisions.</li> <li>• CSEs believe they are not able to use the terms dyslexia, dysgraphia, and dyscalculia.</li> <li>• Interventions used for students with these conditions do not always match the student’s cognitive abilities.</li> <li>• Develop guidance on assessments to determine if students have dyslexia, dysgraphia, or dyscalculia (e.g., a resource bank of assessments).</li> <li>• Inquired where LD students are placed (NYSED response: Expectation that these students are served in general education 80% or more of the day. Could also have special class part of the day.)</li> <li>• Unwillingness to identify students with dyslexia at an early age. (NYSED response: Nothing prohibits earlier identification but must also ensure students who are identified have received appropriate instruction.)</li> <li>• Concerned students are not getting full access to the general education curriculum.</li> <li>• Need to explain importance of survey when sending out. Recommend disseminating survey through Stakeholder group and NYSED networks. Questioned if survey will include students. (NYSED response: Youth Advisory Panel members were part of stakeholder group.)</li> <li>• Need better teacher training on teaching reading. NYS only requires six credits of coursework on teaching students to read. Teacher Education programs cannot go beyond certain allotment of credit hours.</li> <li>• Teachers lack knowledge of evidence-based practices – develop resources on particular strategies for remediation. If interventions not started early enough, students fall further behind.</li> <li>• Repurpose the Response to Intervention Technical Assistance Center or use MTSS to focus on reading.</li> <li>• Increase use of assistive technology to better meet students’ needs. (NYSED response: Assistive technology is an important piece but is not a replacement for appropriate instruction in reading.)</li> <li>• How will NYSED ensure fidelity of scientific research-based practices (SRB)? Look at effective practices being used in other states (e.g., New Jersey requires two days of professional development on dyslexia and dysgraphia). (NYSED response: NYSED is looking at best practices using Transformation Zone as part of SSIP (NYSED cannot recommend/endorse specific programming); build capacity/sustainability; tools for professional development (e.g.,</li> </ul>	<p>NYSED will provide data on placement of students with LD at next CAP meeting.</p>

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	data collection). Interventions available on federal "What Works Clearinghouse" meet federal expectations for SRB practices. NYSED has also looked at other state practices.)	
<b>Significant Disproportionality</b>	<ul style="list-style-type: none"> <li>❖ OSE staff provided a PowerPoint presentation on "Equity in IDEA: New Disproportionality Requirements; NYSED's Plan for Implementation" and received CAP member recommendations. <ul style="list-style-type: none"> <li>• United States Department of Education is accepting comments on delaying implementation of new significant disproportionality regulations.</li> <li>• Regardless of federal government decision, NYSED is moving forward with Comprehensive Coordinated Early Intervening Services (CCEIS) [reserving 15 percent of IDEA funds to address factors contributing to the significant disproportionality]; using three consecutive years of data to determine significant disproportionality and using the risk ratio thresholds described below.</li> <li>• Risk ratio threshold – defined by the state, identifies at what level of risk disproportionality becomes significant, must be reasonable; nationally, states are ranging from 2.0 - 4.0 in the various categories. NYSED reviewed stakeholder input, and, based on this feedback, is proposing the following thresholds: <ul style="list-style-type: none"> <li>➢ Suspension: Out-of-School Suspension (OSS) Over 10 Days = 2.0; In-School Suspension (ISS) Over 10 Days = 2.0; OSS 10 Days or Less = 3.0; ISS 10 Days or Less = 3.0; Total Removals = 4.0</li> <li>➢ Identification (all disabilities) = 2.5</li> <li>➢ Placement = 2.5</li> </ul> </li> <li>• NYSED will continue to use: Cell size = 10 and N size = 30.</li> <li>• NYSED will be using a tiered monitoring and intervention system for districts identified with significant disproportionality. Need to change how we intervene in order to have a greater impact on district data.</li> <li>• OSE staff addressed questions and concerns about the thresholds selected and asked members for suggestions on how to increase the effectiveness of NYSED's monitoring strategies:</li> </ul> <p><b><u>CAP Members' Comments, Questions, and/or Recommendations</u></b></p> <ul style="list-style-type: none"> <li>• PBIS framework – Need to create a more positive climate in schools.</li> <li>• General educators are staff suspending students - Training is essential.</li> <li>• Need experts to work with districts to address behavioral issues before suspending students.</li> <li>• Use forensic study approach to get a clear picture of what is happening - need to find root cause.</li> <li>• Identify interventions that work. Current approach is reactionary - missing universal support (e.g., cultural sensitivity).</li> <li>• Inconsistency in how suspension is defined and implemented from one district to another.</li> </ul> </li> </ul>	