

## **Commissioner's Advisory Panel for Special Education Services November 8-9, 2018 Meeting Minutes**

The Commissioner's Advisory Panel (CAP) for Special Education Services held its scheduled fall meeting on November 8-9, 2018.

### **Members Present November 8, 2018:**

Susan Albamont, Lynnette Aqueron, Sally Berry, Kimberly Black, Naomi Brickel, Timothy Bromirski, Edward Escobar, Jacqueline Frey, Jacqueline Harris, Barbara Martorana, Mary McInerney, Alyse Middendorf, Namita Modasra, Eileen Murtha, Matthew Nelson, James Nolan, Ora Perkins, Lori Podvesker, Vicki Prager, Lynn Radicello, Eric Rosser, Yvonne Sinisgalli, Kristie Stomecki, Mara Vanderzell, Danielle Williams, Jamey Wolff, Mary-Margaret Zehr,

### **Members Present November 9, 2018:**

Susan Albamont, Lynnette Aqueron, Kimberly Black, Timothy Bromirski, Naomi Brickel, Edward Escobar, Jacqueline Frey, Jacqueline Harris, Chris Kus, Barbara Martorana, Mary McInerney, Alyse Middendorf, Namita Modasra, Eileen Murtha, Matthew Nelson, James Nolan, Ora Perkins, Lori Podvesker, Lynn Radicello, Eric Rosser, Yvonne Sinisgalli, Kristie Stomecki, Mara Vanderzell, Danielle Williams, Jamey Wolff, Mary-Margaret Zehr

### **Motions for Action by Voting Members**

#### **Election of Officers**

Members voted on the election of CAP officers: Yvonne Sinisgalli was elected to serve as Vice Chairperson and Jacqueline Harris as secretary for one-year terms.

#### **May 2018 CAP Minutes**

A motion was made and seconded to approve the May 2018 CAP meeting minutes. All were in favor. The motion passed. Minutes were approved.

### **Matters not requiring Member Action**

#### **Public Comment**

Public comments were made by the New York Council of Administrators of Special Education's (NYCASE) Legislative Committee. NYCASE reviewed its mission statement and recent legislative advocacy issues. NYCASE supported actions taken by the Board of Regents to expand certifications to cover needed areas and requested increased opportunities to partner with the New York State Education Department (NYSED) regarding teacher certification, teacher shortages, additional changes for elementary and secondary teacher certification. NYCASE recommended additional changes be made to teacher certification to address shortages of fully certified personnel, especially at the secondary level, and an increased focus on literacy/reading at the elementary level. As the extensions provided by recent regulatory changes are temporary, NYCASE recommended that NYSED address teacher certification on a larger level. NYCASE offered to partner with NYSED on addressing these issues and would like to establish a system of ongoing communication and information sharing with NYSED and CAP.

## **Discussion with Assistant Commissioner**

Assistant Commissioner Suriano reviewed recent changes to the Office of Special Education's (OSE's) organizational structure, including Samuel Zimmerman, Director of Special Education Services and Susan Bolling, Manager of Non-district Programs.

OSE is taking steps to better align the work of its technical assistance networks with that of the Special Education Quality Assurance (SEQA) Regional Offices. OSE is shifting its regional planning process to better support identified school districts through improvements in professional development and monitoring practices and proactively supporting districts prior to districts being identified. Members indicated support for these changes and recommended that OSE look at ways to get this information to districts and incentivize good work by recognizing and supporting districts that are doing well.

Final recommendations of the Board of Regents Early Childhood's Workgroup Blue Ribbon Committee were discussed at the September 2018 Board of Regents meeting. NYSED is requesting \$6 million to incorporate students with disabilities into Universal Prekindergarten (UPK) programs (approximately 600 new preschool seats Statewide). NYSED is reviewing ways to blend funding for UPK classes to provide students with disabilities more inclusive settings. Members discussed issues relating to preschool special education including the need for more inclusive programming and funding to ensure there are sufficient evaluators and preschool programs available.

Current focus areas for OSE include, but are not limited to, least restrictive environment, culturally responsive-sustaining practices and transition. The framework for culturally responsive-sustaining practices will drive OSE's work regarding significant disproportionality. Disproportionality is not solely a special education issue but needs to be addressed at all levels in general education. Discipline issues are centered around African American students for both students with disabilities and general education students. Suspension is one of the equity indicators in New York's Every Student Succeeds Act State Plan and will provide information on suspension at the student level.

OSE continues work related to the **Raise the Age** Initiative. Thirteen voluntary agencies responded to a request for proposal to serve 16 and 17-year old students who will no longer be placed in adult correctional facilities. NYSED will need to ensure the educational component of these programs. NYSED is working with Department of Budget to ensure adequate funding and is identifying school districts to educate students placed in agencies that are not associated with a school.

To further address teacher shortages, at the [October Board of Regents meeting](http://www.regents.nysed.gov/common/regents/files/1018hed3.pdf) (<http://www.regents.nysed.gov/common/regents/files/1018hed3.pdf>), NYSED proposed amendments to the Commissioner's Regulations to extend certificate titles eligible for existing grade level extensions, limited extensions and a Statement of Continued Eligibility (SOCE) to Students with Disabilities (Grades 5-9) and other certification bands. Public comment is currently being accepted. Members recommended that NYSED look at ways to get individuals to go into the field of teaching special education and making it easier to hire teachers with certification from another state. Members reviewed and provided feedback on a draft special education teaching assignments and certification document (i.e., who can

teach what). Members recommended that OSE simplify information distributed to parents and teachers and use multiple methods for relaying information.

### **State Performance Plan (SPP) Indicator 11 – Timely Evaluations**

Members of OSE's SPP Indicator 11 Workgroup presented data and information on possible root causes for New York State (NYS) not meeting its target for Indicator 11 that 100 percent of children will be evaluated within 60 days of receiving parental consent for initial evaluation. Members discussed ways to improve NY State's Indicator 11 compliance percentage including: technical assistance to schools in need of improvement, increased accountability measures for all districts, increased creativity and resources for bilingual evaluator shortages and requiring all districts to report yearly on Indicator 11. Collected recommendations will be shared and discussed with the Indicator 11 workgroup and other OSE staff.

### **CAP By-Laws**

Members discussed the role of public comment and reviewed the CAP [By-laws](http://www.p12.nysed.gov/specialed/cap/bylaws.htm) (<http://www.p12.nysed.gov/specialed/cap/bylaws.htm>), including member responsibilities as set forth in NYS Education Law. Anne Louise Thompson from the National Center for Systemic Improvement (NCSI), funded through the Department of Education's Office of Special Education Programs, is providing OSE technical assistance on ways to structure of CAP to ensure better alignment with member responsibilities as outlined in the By-laws. Members identified and recommended possible modifications to the CAP meeting structure. Members were asked to continue to think about recommendations regarding the structure of the CAP meetings. This topic will be brought back to the members for further discussion at their February 28-March 1, 2019 meeting. Based on member feedback, OSE will continue discussions with NCSI.

### **New York State Alternate Assessment (NYSAA) (One Percent Participation Cap)**

OSE staff members provided an overview of the new requirements under the Every Student Succeeds Act (ESSA), which limits the total number of students with the most significant cognitive disabilities who take an alternate assessment to one percent at the State level and requires districts that assess more than one percent in any subject to submit information to the state justifying the need to exceed the one percent cap. NYSED will be issuing guidance to assist committees on special education (CSE) in determining if a student meets the NYSAA eligibility criteria. NYSED will also be identifying and notifying school districts that must submit justification for exceeding the one percent cap. Members identified and provided additional suggestions for ensuring students are appropriately identified for the NYSAA and have access to the general education curriculum, and that parents understand what the NYSAA is and the impact taking this assessment may have on their child's ability to earn a NYS diploma.

### **State Policy Updates**

OSE staff provided updates on special education policy issues. At their September 2018 meeting, the Board of Regents discussed proposed amendments to conform State regulations to Chapters 422 and 428 of the Laws of 2017 and Chapter 32 of the Laws of 2018. NYSED is accepting public comment on the proposed changes until December 3, 2018. At the October 2018 Board of Regents meeting, an update was provided on the collaboration between Adult Career and Continuing Education Services (ACCES)- Vocational Rehabilitation (VR) and OSE including information on the ACCES-VR Peer

Mentoring Initiative. Since the last CAP meeting in May 2018, OSE has issued the following guidance documents:

- *Field memoranda on Chapters 422, 428 and 429* (<http://www.p12.nysed.gov/specialed/timely.htm>);
- *Guidance on Chapter 216 of the Laws of 2017: Students with Disabilities Resulting from Dyslexia, Dysgraphia, and Dyscalculia* (<http://www.p12.nysed.gov/specialed/publications/guidance-on-chapter-216-of-the-laws-of-2017.html>);
- *Superintendent Determination Option for Graduation with a Local Diploma-UPDATED August 2018* (<http://www.p12.nysed.gov/specialed/publications/superintendent-determination-option-august-2018.html>);
- *Safety Net Options Available to Students with Disabilities to Graduate with a Local Diploma (Updated July 2018)* (<http://www.p12.nysed.gov/specialed/publications/superintendent-determination-option-august-2018.html>); and
- *New York State Laws and Regulations that Differ from Federal Requirements* (<http://www.p12.nysed.gov/specialed/publications/partb-analysis-cover.htm>).

OSE is in process of redesigning its website to make it more user friendly and ensure accessibility.

### **Significant Disproportionality Updates**

The United States Department of Education (USDOE) has postponed the date to comply with significant disproportionality regulations until July 1, 2020. NYS is still moving forward with plans to implement changes discussed at the previous CAP meetings in the 2018-19 school year. NYSED is revising its tiered monitoring and intervention system for districts identified with disproportionality. School districts identified for significant disproportionality will be required to conduct a root cause analysis and inform NYSED how they are expending their Comprehensive Coordinating Early Intervening Services (CCEIS) funds on factors that are contributing to their significant disproportionality and report data to determine effectiveness. Members discussed possible root causes leading significant disproportionality in schools including: lack of workforce diversity; schoolwide disciplinary procedures; socioeconomic status; lack of cultural awareness; and lack of appropriate behavioral supports. Members recommended looking at restorative practices, possible revisions to [Education Law 3214 “Student placement, suspensions and transfers”](http://www.p12.nysed.gov/ssslawsregs/3214.html) (<http://www.p12.nysed.gov/ssslawsregs/3214.html>) and teacher coursework on disproportionality and cultural responsiveness. Members also recommended providing districts training on how to conduct root cause analysis and that NYSED evaluate the effectiveness of the technical assistance being provided to districts.

### **NYS 2018 IDEA Determination**

USDOE [notified NYSED](https://sites.ed.gov/idea/files/ny-apr1tr-2018b.pdf) (<https://sites.ed.gov/idea/files/ny-apr1tr-2018b.pdf>) in June 2018 that New York was identified as *needs assistance* in implementing the requirements of Part B of the Individuals with Disabilities Education Act. This determination was based on the totality of the NYS’s data and information, including the Federal fiscal year (FFY) 2016 SPP/Annual Performance Report.

## **Preschool Updates**

OSE's Preschools Unit and the Office of Early Learning (OEL) have engaged in a number of collaborative projects and stakeholder engagement including the [A Resource Guide to Special Education Support Services](http://www.p12.nysed.gov/earlylearning/documents/AResourcetoSpecialEducationSupportServices.pdf) (http://www.p12.nysed.gov/earlylearning/documents/AResourcetoSpecialEducationSupportServices.pdf), [Board of Regents Early Childhood Workgroup's Blue Ribbon Committee Report](http://www.p12.nysed.gov/earlylearning/documents/ECBRCFinalReport2018.pdf) (http://www.p12.nysed.gov/earlylearning/documents/ECBRCFinalReport2018.pdf), [Special Education Integrated Setting \(SCIS\) Methodology Workgroup](http://www.regents.nysed.gov/common/regents/files/P-12%20-%20New%20Funding%20Methodology%20for%20Preschool%20Inclusion%20Recommendations%20for%20Consideration.pdf) (http://www.regents.nysed.gov/common/regents/files/P-12%20-%20New%20Funding%20Methodology%20for%20Preschool%20Inclusion%20Recommendations%20for%20Consideration.pdf). NYSED will be proposing both budget and legislative recommendations for Early Learning to the Board of Regents as a result of the Early Childhood Work Group's Blue Ribbon Committee recommendations. OSE is also working with the OEL to develop staffing standards to benchmark and quantify Early Childhood Special Education program model needs. The 2017-18 Enacted State Budget provided the Special Education Services and Program Data system with the following funds: \$3.46M for 2019-20 and 2020-21. Funds will be used to improve the State's ability to collect use and disseminate programmatic and fiscal information related to the provision of special education services by approved providers.