

**New York State's
Commissioner's Advisory Panel for Special Education Services
November 21-22, 2019 Meeting Minutes**

New York State's (NYS) Commissioner's Advisory Panel (CAP) for Special Education Services held its scheduled fall meeting on November 21-22, 2019 at the New York State Education Department (NYSED) building.

Members Present November 21, 2019:

Susan Albamont, Lynnette Aqueron, Kimberly Black, Naomi Brickel, Tim Bromirski, Edward Escobar, Jacqueline Frey, Laura Hartmann, Dustie Huff, Laretta Joseph, Chris Kus, Barbara Martorana, Mary McInerney, Alysse Middendorf, Namita Modasra, Eileen Murtha, Lori Podvesker, Yvonne Sinisgalli, Annmarie Urso, Mara Vanderzell, Danielle Williams, Jamey Wolff.

Members Present November 22, 2019:

Susan Albamont, Lynnette Aqueron, Naomi Brickel, Tim Bromirski, Edward Escobar, Jacqueline Frey, Laura Hartmann, Dustie Huff, Laretta Joseph, Chris Kus, Barbara Martorana, Mary McInerney, Namita Modasra, Eileen Murtha, Ora Perkins, Brian Pulvino, Annmarie Urso, Mara Vanderzell, Danielle Williams, Jamey Wolff.

Also present were Assistant Commissioner, Office of Special Education (OSE), Christopher Suriano; OSE Director of Special Education Services, Joanne LaCrosse; OSE Supervisor - Policy Unit, Alison Conners; OSE Associates: Sandra Cote, Jennifer Hedderman, Megan Brown, Marilyn Mooney, Kelly Onorato, Deborah Rous, and Elina Tsenter; OSE Manager of Preschool and Nondistrict Unit, Suzanne Bolling; Assistant Data Director, Information and Reporting Services (IRS)/NYSED Coordinator of Federal Reporting, Kristin DeSalvatore; and NYSED Consultant, WestEd, Anne Louise Thompson.

General Business

CAP Chairperson Edward Escobar called the meeting to order at 11:30 a.m. Chairperson Escobar introduced Yvonne Sinisgalli, the 2018-19 CAP Vice-Chairperson. The term for the 2018-19 CAP Secretary, Jacqueline Harris, ended in June 2019 due to her retirement. Chairperson Escobar also informed members that a vote would be taken during the meeting to elect the new Vice-Chairperson and Secretary for the 2019-20 CAP year.

OSE staff introduced themselves and Anne Louise Thompson from WestEd, OSE's contractor that is consulting on the restructuring/implementation of CAP and facilitating the 2019-20 CAP meetings.

Chairperson Escobar introduced new CAP member Dustie Huff, representing the constituency "Individual with a Disability." New Ad Hoc member Laura Hartman from NYSED's Adult Career and Continuing Education Services-Vocational Rehabilitation Office was introduced later in the meeting upon her arrival.

New Business

ACTION ITEMS

May 30-31, 2019 CAP Meeting Minutes

MOVED, that the May 30-31, 2019 meeting minutes be approved.

Action: Motion carried unanimously.

Election of Officers

CAP members were provided the opportunity to nominate candidates for the positions of Vice-Chairperson and Secretary.

MOVED, the uncontested nominations of Yvonne Sinisgalli for Vice-Chairperson and Danielle Williams for Secretary.

Following the opportunity to make nominations, the CAP members voted by voice vote.

Yvonne Sinisgalli was elected Vice-Chairperson and Danielle Williams as Secretary for a one-year term by unanimous vote.

Executive Committee Report

Chairperson Escobar provided a summary of the business conducted by the Executive Committee since the May 2019 CAP meeting including, in collaboration with NYSED, development of the 2018-19 CAP Annual Report, implementation of member "Letters of Commitment" and development and implementation of the CAP member orientation.

MOVED, that the Executive Committee Report be accepted.

Action: Motion carried unanimously.

Old Business

ACTION ITEMS

CAP Annual Report

MOVED, that the *New York State Commissioner's Advisory Panel (CAP) for Special Education Services Annual Report - July 2018-June 2019* be approved.

Action: Motion carried unanimously.

DISCUSSION ITEMS

CAP Orientation

Members were asked for feedback on the CAP Orientation Webinar and provided the following comments:

- Orientation was very informative;
- Presentation was very scripted;
- Information was important; however, the amount of information covered was intense; and
- Had difficulty submitting questions during the webinar.

Members were informed that an email address has been established for the Executive Committee Members. This address was shared during the orientation and should be used to contact the Executive Committee regarding meeting attendance and for other matters/questions for the Executive Committee.

A question was raised regarding the scheduling of the CAP meetings and if the May CAP meetings could be scheduled earlier in the month to avoid the week of Memorial Day. NYSED staff reviewed the scheduling process, including the discussion that occurred at May 2019 CAP meeting regarding the timing of the spring CAP meetings, and factors considered in selecting the meeting dates. The meeting dates of May 28-29, 2020 for the spring 2020 CAP meeting were not changed.

A CAP virtual meeting will be scheduled for February or March 2020. The meeting will include discussions on the distribution of NYS's funds under the Individuals with Disabilities Education Act (IDEA) and the NYS's Federal Fiscal Year (FFY) 2018 State Performance Plan (SPP)/Annual Performance Report (APR) due to the U.S. Department of Education on February 3, 2020. Members will be asked for their input in selecting the date of the virtual meeting.

Discussion with the Assistant Commissioner of Special Education

Assistant Commissioner Suriano reviewed OSE's Technical Assistance Partnerships (TAP). A TAP is a funded memorandum of understanding (MOU)/contract located within an institute of higher education that serves two primary purposes: to provide tools and resources for families and professionals, as well as provide direct support to the professionals within the Educational Partnership. The five TAPs include Data, Transition, Behavior, Academics, and Equity. There are also 12 Regional Partnership Centers, 14 Early Childhood Family and Community Engagement Centers, and 14 School-age Family and Community Engagement Centers. A number of regional trainings are currently already available to the field and additional trainings will soon be available.

NYSED is making a shift in how it works with districts identified as not meeting requirements under IDEA. In 2018-19, 44 districts Statewide were identified as "Needs Assistance" or "Needs Intervention" under IDEA. OSE is implementing comprehensive Compliance Assurance Plans (CAP) in districts determined to be "Needs Assistance" eight or more consecutive years. The New York City (NYC) Department of Education (DOE) was the first district to have a comprehensive CAP. OSE will be going into Rochester City School District to do a deep systemic probe and develop a comprehensive CAP to support the district to make systemic changes with the support of OSE's Partnership. IDEA determinations for 2019-20 are tentatively scheduled for release in January 2020.

Assistant Commissioner Suriano discussed OSE's efforts to improve instruction and outcomes for students with disabilities, including the roll out of NYSED's Multi-tiered systems of support (MTSS) draft framework. NYSED also supports other tiered systems for school improvement including Social Emotional Learning Framework and Culturally Responsive and Sustaining Practices Framework. The MTSS framework is being used in the 14 pilot schools that are part of the State Systemic Improvement Plan and OSE's goal is to scale-up implementation statewide. OSE is focusing on developing classrooms to meet the needs of students in the least restrictive environment, especially inclusion at the early learning level. At the preschool level, NYSED is looking at the blending of funding streams to promote preschool inclusion.

Assistant Commissioner Suriano also reviewed recent changes relating to teacher certification for students with disabilities, specifically implementation of the Statement of Continued Eligibility (SOCE) for Teachers of Student with Disabilities who teach special classes in grades 7-12 and ensuring information on the SOCE is getting to the field. OSE is also working with the Office of Teaching Initiatives on issues relating to teacher preparation and retention.

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

Members were asked to share new concerns, challenges or unmet needs within their region of the State from their constituent groups, networks and/or own experiences since the May 2019 meeting. The following were identified as the top five priority areas of need within the State:

- Behavioral and mental health issues/certification of behavior specialists;
- Simplification of NYS graduation requirements;
- Updated Parent's Guide needs to be issued;
- Need for quality inclusive programming/guidance on serving students in the least restrictive environment (LRE); and
- Requirements for general education teachers teaching students with disabilities.

Subcommittees

The four subcommittees established for 2019-20 CAP meetings (1.) Student Performance Outcomes; 2.) Legislative/Regulatory/Policy; 3.) Teacher/Provider Certification/Recruitment/Retention; 4.) LRE/Inclusion met separately for the first time to discuss the following:

- Purpose and goal;
- Major issues to address;
- Assign roles;
- Determine need for additional outside meetings – frequency and method; and
- Determine clarifying data, materials and support from NYSED.

Subcommittee members were introduced to their OSE liaisons who have been assigned to each subcommittee. The OSE liaisons attended the breakout subcommittee meetings to provide support as needed.

Subcommittee Reports

Student Performance Outcomes

- Create a vision/mission statement later in the year.
- Noted many barriers after reviewing SPP/APR indicators 1-8, and 13-14.
- Recommend development of a thorough parent's guide for transition along with a staff guide. There needs to be teacher and counselor trainings on transition as well. Teachers and counselors need to know the process in order to develop transition plans and individualized education programs (IEPs). Transition planning needs to start earlier - many school districts do not start transition planning until a student's senior year.
- NYS graduation requirements need to be simplified. Consider possibility of recommending a legislative change to allow students under age 21 to stay one extra year after diploma is awarded for vocational training. Vocational training is necessary to address social and emotional needs.
- Students need to understand transition process and what support/services NYSED's Adult Career and Continuing Education Services – Vocational Rehabilitation (ACCES-VR) can provide.
- Preparation for the adult world for students with disabilities should be a major focus. There is often a time gap between systems (high school to ACCES-VR).
- Determine what needs to be shared with other subcommittees.

Legislative/Regulatory/Policy

- Clarified purpose of subcommittee – to have a more formal voice and to present CAP's positions on legislative bills and regulations in order to impact legislative policy.
- Subcommittee will survey CAP members and have them weigh in on NYSED policy and regulations.
- Determined need for outside meetings and assigned each subcommittee member a role.
- Need to formalize process flow and how to identify issues CAP should weigh-in on – look at this in consideration of unmet needs.
- Will develop flow chart to share with CAP - platform for communicating in different ways.
- Data needed from NYSED will depend on what is being proposed.

Teacher/Provider Certification/Recruitment/Retention

- Four areas of exploration – 1.) Shortages in the profession - look at public and private school report; 2.) Teacher training; 3.) Certification requirements; and 4.) Recruitment and retention.
- Recommended development of a survey relating to teacher shortages to be sent to District Superintendents to determine shortages in both public and private schools for teachers, related service providers, and school psychologists.
- Made decision to partner with Collaboration for Effective Educator Development, Accountability, and Reform (CEEDAR) Center¹ looking at teacher shortage.
- Root cause analysis for teacher shortages identified as first task of the group – review information currently collected on the Basic Educational Data System “BEDS” form.
- Subcommittee will next meet in January 2020.

LRE/Inclusion

- Needs to be greater implementation of the least restrictive environment (LRE).
- Determine “Why isn’t LRE happening?”:
 - “What are the reasons/barriers?”;
 - Need accountability;
 - Mind shift to inclusion “buy-in”; and
 - Training and the lack thereof for students, teachers, parents, and administrators on what inclusion means. Need more coursework for teachers on LRE (e.g., multi-tiered systems of support, goal writing, LRE).
- Subcommittee will bring back information at the virtual meeting.

Public Comment

Public comment was made by Deborah Napolitano, Assistant Professor, Applied Behavior Analysis, Daemen College, on issues pertaining to the availability of services to individuals with intellectual and developmental disabilities and behavioral disorders in NYS. Dr. Napolitano indicated that there is a restriction on the scope of practice for behavior analysts in NYS that limits their practice to only individuals with autism. Thirty states offer licenses in behavioral analysis. In the remaining states, Behavior Analysis Certification Board Credential is accepted for behavior analysts to practice. NYS is only state to limit scope of practice to autism. Limitation on scope of practice has led to a decrease in new behavior analysts in NYS while the profession is growing exponentially in other states. Dr. Napolitano requested that the legislature be urged to pass bills S4967A and A6389A and NYSED’s Office of Professions be urged to support this legislation.

Federal and State Policy Updates

OSE staff provided updates and responded to member questions on the following special education policy issues:

- [1.0 Percent Cap on Participation in the NYS Alternate Assessment \(NYSAA\)](#)
 - The Every Student Succeeds Act (ESSA) limits the percentage of students States may assess using alternate assessment to 1.0 percent of students assessed in the State for each subject. States are prohibited from imposing 1.0 percent cap on individual school districts.
 - New York State has been determined by the U.S. Department of Education to be out of compliance with the 1.0 percent cap requirement in ESSA and in August 2019 was required to submit a plan for reducing the rate of NYSAA participation in future years in order to come into compliance with the 1.0 percent requirement. NYSED will continue to work to ensure

¹ <https://cedar.education.ufl.edu/about-us/>

appropriate participation in the NYSAA in alignment with the ESSA 1.0 percent requirement through a system of tiered interventions.

- [Regulations Relating to Reports of Abuse in an Educational Setting – Chapter 363 of the Laws of 2018](#) (effective October 23, 2019) – Expands the individuals, and the educational settings in which they work, who are required to make a report of child abuse in an educational setting and to complete training surrounding such obligations.
- [New Legislation Removing Non-Medical Exemption from School Vaccination Requirements – Chapter 35 of the Laws of 2019](#)
 - NYS Department of Health (DOH), NYSED and NYS Office of Children and Family Services (OCFS) released guidance for schools, child care programs, parents and guardians on [June 18, 2019](#), [July 22, 2019](#), [August 16, 2019](#), and [October 4, 2019](#) in order to comply with the new law that repeals nonmedical exemptions.
 - DOH and OCFS also filed [emergency regulations](#) on August 16, 2019 to implement the statutory amendments to the Public Health Law.
- [New York Laws and Regulations that Differ from Federal Requirements](#)
- NYSED funded [Personnel Shortage Projects](#)
 - Speech-Language and Bilingual Speech-Language Personnel Development Center
 - Intensive Teacher Institute for Bilingual Special Education
- November 4, 2019 Board of Regents (BOR) item - [Graduation Measures in New York State](#)
 - The BOR has identified Graduation Measures as a priority area and are beginning the process of looking at graduation requirements and what it means to hold a New York State high school diploma. This will be a multi-year 3 phase process.
 - NYSED will be gathering input from across the State to help inform recommendations. CAP has been identified as an important stakeholder group for providing input.
- [NYS's 2019 IDEA Determination](#), 2019 Part B Results-Driven Accountability Matrix, and Differentiated Monitoring and Support Engagement Decisions: *New York 2019-2020*



ny-resultsmatrix-2019b-revised.pdf



DMS NY 2019-20.pdf

- In June 2019, U.S. Department of Education (USDE) notified NYSED that New York was determined to be “Needs Assistance” in implementing the requirements of IDEA. This determination is based on the totality of the State’s data and information, including the FFY 2017 SPP/APR, other State-reported data, and other publicly available information. NYS’s 2019 determination is based on the data reflected in the State’s “2019 Part B Results-Driven Accountability Matrix.”
- [Preschool Development Grant - Birth through Five \(PDG B-5\)](#)
 - Federal grant administered by the federal Department of Health and Human Services jointly with USDE.
 - NYS has applied for \$15 million in annual funding with an anticipated project start date of 12/31/2019 over a 36-month period.
 - The grant will assist states to expand access to existing programs and develop new programs to address the needs of children and families eligible for, but not served by, existing programs.
- Dispute Resolution Updates:
 - Impartial Hearings –
 - NYS has the highest number of impartial hearing requests in the country. In 2018-19, NYS had 10,188 due process impartial hearing requests. Of these requests, 9694 were filed in the NYC region.
 - Currently, there are 68 impartial hearing officers (IHOs) to hear cases in NYC. OSE is doing extensive outreach to increase the number of IHOs, including posting an [announcement seeking applications from individuals to serve the New York City region as special education IHOs](#).

- Mediation - OSE is requiring NYCDOE to take steps to increase the use of mediation, including training on the benefits of mediation.
- Individualized Education Program (IEP) facilitation – NYCDOE is also being required to take steps to increase the use of IEP facilitation. IEP facilitation is still available at no cost as part of the pilot to certain NYCDOE community school districts and all Long Island school districts. IEP facilitation is also available to the rest of State but currently, school districts have to pay the cost of travel for the facilitator. OSE will be expanding IEP facilitation Statewide at no cost to families and districts.

SPP/APR Target Setting – Advise NYSED in developing procedures for evaluations of the special education system and reporting on data to the Secretary of Education under section 618 of IDEA [CAP By-Laws, Responsibilities A.4.]

OSE staff and the NYSED Coordinator of Federal Reporting presented on the SPP and APR. According to the Office of Special Education Programs (OSEP), all states must set targets for the SPP/APR indicators through FFY 2019 (the APR reported in February 2021). Following an overview of the SPP/APR including current indicator targets, members provided the following recommendations:

SPP/APR Indicator	CAP's Recommendation
<u>Indicator 1</u> : Graduation Rates (Percent of youth with individualized education programs (IEP) graduating from high school with a regular diploma)	Extend formula used to calculate previous targets
<u>Indicator 2</u> : Drop Out Rates (Percent of youth with IEPs dropping out of high school (HS))	Extend FFY 2018 target
<u>Indicator 3C</u> : Assessment – (Proficiency for students with IEPs)	
<ul style="list-style-type: none"> • English Language Arts (ELA) Grades 3-8 	Extend FFY 2018 target
<ul style="list-style-type: none"> • ELA HS 	Increase target to 70%
<ul style="list-style-type: none"> • Math Grades 3-8 	Extend FFY 2018 target
<ul style="list-style-type: none"> • Math HS 	Extend FFY 2018 target
<u>Indicator 4A</u> : Suspension/Expulsion (Percent of districts that have a significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year for children with IEPs)	Extend FFY 2018 target
<u>Indicator 5</u> : Education Environments (Children 6-21)	
<ul style="list-style-type: none"> • <u>Indicator 5A</u>: Inside regular class 80% or more of day 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 5B</u>: Inside regular class less than 40% of day 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 5C</u>: Separate schools, residential, or homebound/hospital 	Extend FFY 2018 target
<u>Indicator 6</u> : Preschool Environments	
<ul style="list-style-type: none"> • <u>Indicator 6A</u>: Regular early childhood program and receiving the majority of special education and related services in the regular early childhood program 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 6B</u>: Separate special education class, separate school or residential facility 	Increase target to 21%
<u>Indicator 7</u> : Preschool Outcomes	
<ul style="list-style-type: none"> • <u>Indicator 7A</u>: Positive social-emotional skills (including social relationships) 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 7B</u>: Acquisition and use of knowledge and skills (including early language/ communication and early literacy) 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 7C</u>: Use of appropriate behaviors to meet their needs 	Extend FFY 2018 target
<u>Indicator 8</u> : Parent Involvement	Extend FFY 2018 target

Indicator 14: Post-school Outcomes	
<ul style="list-style-type: none"> • <u>Indicator 14A</u>: Enrolled in higher education within one year of leaving high school 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 14B</u>: Enrolled in higher education or competitively employed within one year of leaving high school 	Extend FFY 2018 target
<ul style="list-style-type: none"> • <u>Indicator 14C</u>: Enrolled in higher education or in some other postsecondary education or training program; or competitively employed or in some other employment within one year of leaving high school 	Extend FFY 2018 target
<u>Indicator 17</u> : State Systemic Improvement Plan (For students classified as students with learning disabilities in SSIP Learning Sites (grades 3-5), increase the percentage of students scoring at proficiency levels 2 and above on the grades 3-5 ELA State Assessments)	Extend FFY 2018 target

Follow-Up Action Steps

The CAP Executive Committee and OSE staff will send a Jot form link out to the CAP Listserv to survey member availability regarding proposed dates for the winter 2020 virtual meeting.

The May 2020 meeting agenda will include a discussion of the 2019-20 CAP Annual Report. Members were also asked to provide input on agenda items for the May 2020 meeting. The CAP By-laws state that “CAP members should submit items to be considered for the agenda of the next scheduled meeting to the CAP Chairperson not later than fifteen days before that meeting. The NYSED designee will send the agenda with all available and relevant data to all Panel members.” A suggestion was made to have all materials sent electronically to CAP members to be used as resources during the meeting and to only have a few copies available on the tables for member use.

The Business/Membership Subcommittee will meet immediately following the closing of the November CAP meeting.

Closing

MOVED, that the November CAP meeting be adjourned.

Action: Motion carried unanimously.