

DRAFT

**STATE ADVISORY COUNCIL ON THE
EDUCATION OF CHILDREN WITH DISABILITIES**

**June 1, 2007
Carmel Educational Service Center
Indianapolis, IN**

ADVISORY COUNCIL MEMBERS PRESENT:

B. Marra, D. Schmidt, G. Bates, R. Burden, D. Downer, C. Endres, K. Farrell, Cindy Lawson for D. Geeslin, J. Hammond, C. H. Hansen, M. Johnson, R. Kirby, B. Lewis, K. Mears, J. Nally, M. Ramos, J. Swaim, J. Swiss, S. Tilden

ADVISORY COUNCIL MEMBERS NOT PRESENT:

S. Beasley, B. Henson, B. Kirk, C. Shearer, T. Wyatt

DEPARTMENT OF EDUCATION (DEL) STAFF PRESENT:

K. Bassett, N. Brahm, S. Cochran, S. Knoth, and B. Reynolds

GUESTS:

Dr. Susan Albrecht (Virtual Special Education Cooperative/Ball State University), Kevin Teasley and Dana Johnson (representing the GEO Foundation), Dr. Dawn McGrath (Representing the Rule 26 Committee), Dr. Leah Nellis (Representing the Rule 26 Committee), Dr. Julie Steck (Representing the Rule 26 Committee), Dr. Loui Lord Nelson (R.A.I.S.E./Representing the Autism Task Force),

VISITORS:

Jennifer Akers (Family Voices), Liz Freeman Floyd (Autism Coalition & Society), Mary Jo Germani (ISHA), Debbie Harmon (ISHA), Bonnie Hertzog (ISHA), Margaret Jones (Parent), Susan Lockwood (IDOC), and Patricia Pierce (NISEC),

INTERPRETERS:

Kellyeanne Norrod

MEETING

D. Schmidt opened the meeting at 8:40 a.m.

D. Schmidt reminded visitors and members to sign in.

D. Schmidt asked that visitors not converse with Council during meeting, except during the allotted time for public comment.

D. Schmidt stated that the next meeting will be on June 15, 2007.

MINUTES

The minutes from the May 18, 2007, meeting were approved.

K. Farrell noted that some of the discussion regarding consultation services to nonpublic school students was abbreviated too much and requested that future minutes retain more detail.

BUSINESS

Dana Johnson, Vice President/General Council for the GEO Foundation and Kevin Teasley, CEO for GEO Foundation were present to represent the proposed formation of the Charter School Service Center which will be the provider of special education services for pupils enrolled in the 21st Century Schools throughout the state. D. Johnson stated that they wanted to depart from the Virtual Special Education Cooperative because they have grown and feel that they are big enough to become their own special education planning district. D. Johnson explained that each school will retain their state and federal funding. There will be one mental health counselor that will be available to all of the schools.

C. Endres asked how they are going to make sure that all of the students who attend schools within the planning district receive services. D. Johnson stated that they have been sharing resources for the last two years with the Virtual Special Education Cooperative and feel they are now capable of providing the services that the Virtual Cooperative has been providing. D. Schmidt asked what the plan is if they have a child enrolled that is visually impaired or other low incidence disabilities. D. Johnson said that they will contract for low incidence as well as related services. K. Teasley concurred. K. Farrell asked if there is data on long term students remaining at their various schools. D. Johnson stated that the data is not available since the 21st Century Schools have only been providing services in Indiana for four years. She added that there are two students that have been with them for the entire four year period. K. Farrell asked about data for students passing ISTEP. K. Teasley stated that all three of their schools made adequate yearly progress (AYP) this past year.

C. Endres asked how the parents were notified of this proposed departure from the Virtual Special Education Cooperative and their overall reaction to the proposal. D. Johnson stated the parents involved with the 21st Century Schools are engaged and supportive. D. Johnson stated that they have had individual discussions with some of the parents of children who have a disability and many were actively involved in the board meeting in which the decision to form the Charter School Service Center took place.

C. Endres asked about funding, AYP, and the reasons behind the decision to not rely on the Virtual Special Education Cooperative any longer. K. Teasley stated that the challenge of being in the Virtual Cooperative was primarily financial. The Board for the GEO Foundation determined that this departure from the Virtual Cooperative will give them more control of special education expenditures and resources.

K. Farrell asked about the caseloads for providers of special education services throughout the three schools. D. Johnson said that current caseloads are estimated at 20 students to 1 teacher. J. Hammond asked about transition planning to adult life. D. Johnson said that since they are new they have yet to add high school level grades and therefore are still in the development phase for this special education requirement. J. Nally asked about the capacity for each of the three schools to provide for special education services that may not yet be identified for students (such as the provision of psychological or other related services). D. Johnson stated that she does not have the data with her today, but can supply it to the Council. K. Teasley stated that in the past, they have had to find their special education service providers not the Virtual Special Education Cooperative. Once the 21st Century School identified a service provider then the Virtual Special Education Cooperative would enter into the contractual arrangement for the provision of services. K. Teasley added that at this time they do not want to enter into any contracts with a director or other services providers until their plan is approved by the Council. Currently they do have contracts through the Virtual Special Education Cooperative and anticipate those contracts to remain effective until such time the Charter School Service Center could develop the contractual agreement. D. Johnson stated that if they are approved by the Council they will have all required special education services available by July 1, 2007. D. Johnson also stated that the staff they currently have under contract will remain the same. C. Endres asked what percentage of current staff are full time employees of the GEO Foundation and what percentage is contracted. D. Johnson said they act in a similar fashion as the other charter schools throughout the state with the split being about 50/50, depending on the level of service necessary to meet the students' needs.

B. Lewis asked for the state and federal special education funding amount currently being sent to the Virtual Special Education Cooperative for these three schools. D. Johnson said it is an estimated \$140,000.00. K. Teasley stated that

it is not a windfall for the school, the funds will help pay for some special education services but there will still be a need for additional funding from the GEO Foundation or its supporters.

K. Farrell indicated that she would like more information about the types of students they are currently serving throughout the three 21st Century Schools. She would also like to see the listing of support services that those students will be provided and how the staff necessary to provide those services will be located and paid. B. Lewis asked for information on how the special education funding for services would be provided for the next school year given that the Charter School Service Center would not conduct the first child count for special education funding until December 1, 2007.

K. Farrell motioned to have the Geo Foundation bring requested information before the Council at the next meeting scheduled for June 15, 2007. B. Lewis seconded. 15 Approved; 0 Opposed; 0 Abstained. Motion carried.

S. Knoth asked Council if they had any questions for Dr. Albrecht. K. Farrell asked what impact the absence of the 21 Century Schools will have on the Virtual Special Education Cooperative. Dr. Albrecht stated that they are at the point where they have 36 schools who are members of the Virtual Cooperative and they continue to grow. The departure of the three 21st Century Schools will not have an impact on the services provided by the Virtual Cooperative because the new schools that are joining the Cooperative will absorb those services. She will not have to reduce any staff that is currently employed by the Virtual Cooperative.

R. Burden asked for clarification of the term virtual as it is used with the Virtual Special Education Cooperative. Dr. Albrecht explained that the Cooperative employs real people who serve real students, however the special education director might participate in meetings (such as a manifestation determination conference) via a virtual (electronic) hook-up. Communication is done virtually, but the staff and services are not.

B. Lewis inquired as to when Part B dollars would begin flowing to the new special education planning district should the Council approve the formation. Dr. Albrecht said that she was not sure. S. Knoth stated that the Division of Exceptional Learners (DEL) will work this out with each of the planning districts involved depending on the decision of the Council. C. Endres asked the DEL to explain at the June 15th meeting how Part B funds will be distributed if the GEO Foundation is approved as their own cooperative. S. Knoth said that the DEL will report back to the Council regarding this request at the June 15th meeting.

K. Mears asked about student teacher ratios for the Virtual Special Education Cooperative. Dr. Albrecht said that each school within the Cooperative is responsible for the student teacher ratio within the respective building. The

Virtual Cooperative oversees that each student's needs are being met according to the provisions of the respective individualized education program (IEP). K. Mears asked if the schools within the Virtual Cooperative are making AYP. Dr. Albrecht stated that they are like any other special education planning district in that some schools within the planning district make AYP while others do not. She stated that there are parents who enroll their child into a charter school and do not notify the school that the child has an IEP. It is not until the student has been enrolled and being provided educational services that those special needs become evident. C. Endres asked how they handle students that do not have an IEP and child find requirements. Dr. Albrecht stated that the question is on their enrollment forms and is also asked verbally during the actual student intake process. C. Endres asked if the charter schools receive educational records from each student's previous school. Dr. Albrecht affirmed that they normally have no issues obtaining educational records. J. Nally stated that it has been his experience that you may ask for them but you do not always receive them. K. Teasley stated that for the 21st Century Schools there will be staff designated to find students with exceptional learning needs. K. Teasley also stated that their schools use the case conference tool within ICAN. S. Knoth noted that sharing and receiving educational records in a timely manner is not solely an issue of the charter schools. D. Schmidt asked who chairs the manifestation determination conferences for all of the charter schools. Dr. Albrecht stated that she currently chairs all of the manifestation determination conferences. She does so as she works with all parties involved to try to resolve the issue before it goes on to expulsion of the student or a due process hearing.

The Council thanked the GEO Foundation representatives and Dr. Albrecht for their time.

Virtual Special Education Cooperative Presentation

Next, Dr. Albrecht presented the new Joint Service and Supply Agreement (JSSA) for 2007-2008 for the Virtual Special Education Cooperative. There are four new charter schools that have been approved by the Ball State Charter School Office. The following are three of the four schools that would like to join the Virtual Charter Schools: Indiana Math and Science Academy, Indianapolis, IN; Imagine MASTer Academy, Fort Wayne, IN; Monument Lighthouse Charter School, Indianapolis; and Renaissance Academy, La Porte, IN.

B. Lewis asked if the schools are current schools or new charter schools. Dr. Albrecht stated that they are new start up schools. B. Lewis asked if there were any representatives from the schools present at the Council meeting. Dr. Albrecht indicated that no, there were not. In the past it was not requested that she ensure a representative from the new schools be in attendance. Dr. Albrecht stated that she and her staff have met with the new schools to discuss their obligations under the law with respect to providing a free and appropriate public education (FAPE) in the least restrictive environment. R. Burden asked if Dr.

Albrecht can assure the Council that as far as the capacity to provide special education services, will the needs of all students be served. Dr. Albrecht said that each of the schools have provided assurances to her that they understand their responsibilities under the law. They will receive additional training during a two-day workshop this summer. Dr. Albrecht's staff will also be present in the new schools during the fall to oversee the start of school and ensure special education services are provided in accordance with each child's IEP..

K. Farrell asked how the funding of Part B dollars was distributed to each the individual schools within the Virtual Cooperative. Dr. Albrecht said that each school contributes to the administrative overhead of the Virtual Cooperative which then contracts for the various special education services. At the end of each fiscal year the Cooperative reports on the special education expenditures used by each of the schools. The Virtual Cooperative requires all documents be processed through the ICAN software. Dr. Albrecht added that they also track equipment and assistive technology used in each school. They are able to hire paraprofessional and related services staff and have them on a daily rate now instead of hourly.

D. Schmidt asked if it is because of the loss of the three 21st Century schools that are they able to fund the new schools. Dr. Albrecht said that she can assure that special education and services will be provided regardless of the Council's decision. The new agreement she has brought forth today does not include the schools that are leaving. Dr. Albrecht was directed by the DEL not to include those in the plan. B. Lewis asked if there have been any charter schools that have not been provided services by the Virtual Cooperative. Dr. Albrecht stated that there have been concerns expressed by some schools but all student's IEPs have been met. Dr. Albrecht stated that she meets with the schools annually to discuss the provision of special education services and let them know if she believes there are parts of Article 7 that they are not meeting. If compliance is not achieved she contacts the head of the school, and if needed, they go to the Mayor's office or Ball State Office for assistance and then ultimately to the DEL. S. Tilden asked if the 21st Century schools opt-out who will make sure that they comply with Article 7. Dr. Albrecht stated that their director of special education will be the one to monitor the compliance with state and federal regulations. S. Knoth stated that the new plan has to be approved by the Council before the GEO Foundation would hire the special education director to oversee compliance.

B. Lewis asked how big can the Virtual Cooperative get before it is unmanageable? Dr. Albrecht stated that there is no limit in her mind as they will manage and grow as schools join the Cooperative. Dr. Albrecht stated that once you build the structure, it is very manageable to modify and expand upon. The goal is to have real people that can get to the schools for support and when those people are in place the rest of service provision and oversight may occur via correspondence, by telephone, or through computer (virtual) communication.

J. Swaim asked about the number of manifestation determination conferences conducted annually by the Virtual Cooperative. Dr. Albrecht stated that thus far it has been manageable. She stated that not one child has been expelled from the charter schools. R. Kirby asked if 21st Century Schools are the first to leave the Virtual Cooperative. Dr. Albrecht said that yes, they are the first to withdraw.

C. Endres explained that GEO Foundation is the organizer of and the management for the 21st Century charter schools. They do not receive any of the grant funding. The schools then contract with the GEO Foundation. D. Schmidt asked C. Endres how many charter schools have homeless students. C. Endres stated that one of the 21st Century schools received a homeless grant this year. D. Schmidt stated that he would like to know more about GEO Foundation. S. Knoth stated that information can be provided to the Council on June 15th. C. Endres asked if we could ask the GEO Foundation to provide more details for the Council on how personnel within the three 21st schools will be supervised and how Article 7 and IDEIA requirements will be met.

D. Schmidt asked that we focus on the issue of Virtual Cooperative's request to add these schools (and not on the GEO Foundation whose representatives have since left the meeting).

R. Burden asked how a parent requests due process in a charter school. Dr. Albrecht stated that it works the same as in any other school in Indiana. B. Marra stated that the Charter School is the school that is held accountable for the provision of a FAPE not the Virtual Cooperative. Dr. Albrecht added that she does speak to the parents directly when they contact her with any concerns and will listen and try to resolve the issue before a complaint or due process procedure takes place. R. Kirby asked if there have been any other changes to the plan. Dr. Albrecht said that the language is still the same except for the addition of these schools.

R. Kirby motioned to accept the plan. Seconded by J. Hammond.

5 Approved; 10 Opposed; 0 Abstained.

Motion defeated.

B. Lewis stated he would like to have the schools that want to join the Virtual Cooperative be present during the presentation on June 15th. He stated that it would aid in the response to any questions that the Council may have. R. Burden concurred.

B. Marra asked the Council if in the future they would like for representation from the new charter schools to be present at the meetings for questioning. The response was affirmative.

J. Nally stated that he would like to see the documentation that these schools will have assurances to provide services as well as to comply with Article 7 and IDEIA.

Dr. Albrecht said that she will have representatives from the schools available at the June 15, 2007, meeting of the SAC. The Council thanked Dr. Albrecht for her time.

ARTICLE 7 COMMENTS FROM THE PUBLIC

P. Pierce, Director for the Northwest Indiana Special Education Cooperative provided the Council with a handout of points that she would like the SAC to consider as they move forward with the proposed revisions to Article 7. C. Endres asked for clarification on the concern P. Pierce had with educational surrogate parent. P. Pierce gave an example of a situation at her cooperative and stated that she did not want to have to jump through hoops to find surrogate parents who match ethnicity. N. Brahm indicated that she did not recall adding any additional requirements or parameters regarding a district's assignment of a temporary educational surrogate. She believes the language the Council proposed/reviewed was directly out of the federal language.

D. Schmidt asked in what capacity is she representing the thoughts and ideas presented in the document she shared with the Council. P. Pierce stated that she was with the Council as a representative of the Northwest Indiana Special Education Cooperative.

N. Brahm stated that after P. Pierce reviews the proposed language in these areas she may approve of the changes.

Discussion of Article 7

RULE 19 NON PUBLIC SCHOOLS OR FACILITIES

511 IAC 7-34-4: Consultation with nonpublic school representatives and representative of parents

N. Brahm discussed consultation meetings that must occur between the LEA and nonpublic schools within their jurisdiction as well as who decides who the parent representative(s) will be. She stated that she has researched this and there is no explanation of who must represent the parent. It just says a parent representative must be present. N. Brahm stated that the language that is in Section 4 and provided to the Council today is verbatim from the federal language.

D. Schmidt asked if the consultation is to occur annually. N. Brahm stated yes.

K. Farrell asked about the phrase pertaining to the consultation including the design and development of services to be provided. If she has already conducted a consultation and a new student moves into the district does she have to provide another consultation? N. Brahm stated that she thinks it is almost a series of 'ongoing' consultations and you would have that particular 'consultation' at the case conference committee meeting (CCC). K. Farrell asked who would be responsible for ensuring the parents are invited. B. Marra stated that since we cannot hold the nonpublic schools accountable, it will ultimately be the LEA, but hopefully it would be a collaborative effort since the nonpublic school representatives know who the parents are (and the LEA most likely would not).

A discussion of the proportionate share and annual pupil count (APC) dollars ensued. B. Marra stated that technically once the funds are expended the special education services may stop. The LEAs are generating state dollars (the APC dollars) therefore the schools need to use both the proportionate share of the Part B funds and the APC funds generated by nonpublic school students before they cease the provision of services. K. Farrell asked if the consultation and service agreement is the same for all nonpublic schools or will each one be different. B. Marra indicated that he would think each LEA's service plan with each nonpublic school would be different. B. Marra said that there is no mandate to provide FAPE for nonpublic school students. K. Farrell had concern with the term 'case conference committee'. N. Brahm stated that the case conference committee is comprised of the same people you would have were the student attending a school within the LEA and they must offer a FAPE to the child. Then the same team develops a service plan if the parent elects to leave the child at the nonpublic school. K. Farrell asked what if a case conference committee decides that the money should go for just one special education service (or even a related service such as physical therapy)? If a non-public school and the LEA agree to expend all the money on just speech services, then a child who doesn't need speech, yet is in need of a different service, would not receive any services from the LEA until such time the service plan agreement stipulates otherwise. B. Marra said that an agreement such as this would be at the discretion of the LEA and the nonpublic school representatives. K. Mears said that is why there should be a parent representative present at the time the consultation occurs and services are agreed upon. B. Marra said that if an agreement for services is not reached, then it could be a complainable issue. The proportionate share and APC dollars are only for those students that are 'known' at the time the December 1 count was taken and will not include any children who move in to the nonpublic school at a later date.

R. Burden stated that his concern is to have the language in this section of the Rule clear and that this new language is clear. He feels that he can actually understand the requirements and be able to tell others what those requirements are.

K. Farrell asked about the language, at page 2, item (4) (B) – "how special education and related services will be offered to all nonpublic school students with disabilities if the proportionate amount of Part B Funds, as specified in 511

IAC 7-34-7, is insufficient to serve all nonpublic school students with disabilities". This is the area of 'contention' among many LEAs. B. Marra stated that yes this ties back to the APC dollars factoring in too. K. Mears is in agreement with this language.

D. Schmidt asked for clarification on the statement that the services might be different. B. Marra said that it is because the nonpublic school student isn't entitled to a FAPE so the services provided in the nonpublic school might look very different to the FAPE provided in the LEA's school.

J. Hammond asked for dollar amounts with regard to the state funding (APC) as opposed to the federal funding B. Marra said that there are actually almost twice as many state dollars (APC) as there are federal dollars.

R. Burden motioned to accept 511 IAC 7-34-4 through 10 with the changes the Council offered. K. Farrell seconded.

A discussion about the term consultation ensued. There is concern of confusion between consultation with the nonpublic school representative and consultation as a special education service. There is also some concern that consultation as a service on the least restrictive environment (LRE) continuum is not always adequate. K. Mears stated that sometimes the consultation occurs solely via eMail.

Vote called to question.

11 Approved; 2 Opposed; 1 Abstention.

RULE 2035 PROGRAM PLANNING AND EVALUATION

511 IAC 7-2035-3 ~~Comprehensive system of personnel~~ Technical assistance and training

Dr. Nelson spoke on behalf of the task force on autism spectrum disorder (ASD). Dr. Nelson provided the Council with a power point to update the SAC on the task force's goals and outcomes they propose for the language in Rule 2035.

B. Marra stated that he has moved the training of personnel language from eligibility and placed it under program planning and evaluation.

J. Swiss motioned to approve 511 IAC 7-35-3 as amended. J. Hammond seconded.

Discussion as to whether there is assurance that knowledge and skills are acquired. C. Endres asked what would happen if this was brought forth to the DEL through a complaint. B. Marra gave an example of a recent complaint where the teacher/administrator was sent back for additional training because the behaviors were still happening.

Vote questioned.

12 Approved; 0 Opposed; 1 Abstained.

RULE 2641 ELIGIBILITY CRITERIA

Dr. Nellis and Dr. McGrath presented a power point to the Council on the work of the Rule 26 Committee.

Discussion occurred regarding an eligibility chart that was developed to illustrate the assessments that are minimally required. The purpose is to have the results synthesized in an educational evaluation report for each child with a suspected disability as articulated in Rule 26. The chart helps illustrate any overlaps in required assessments for each exceptionality area.

Dr. Nellis continued the presentation.

Dr. Steck addressed the Council to discuss differences of opinion within the committee. Dr. Steck strongly disagrees with the proposal to remove cognitive assessment from all but three of the exceptionality categories. A cognitive disability is the least desired for parents. If you don't do a cognitive assessment students won't be eligible if the incorrect disability is suspected. Most people associate testing or IQ (intelligent quotient) testing as bad or inappropriate because of misuses. However, they are still the best predictor of academic achievement.

J. Hammond asked if this proposed language is comparable to other state's eligibility criteria. There are certain functional or categorical definitions shared by agencies in our state. B. Marra cautioned that the IQ testing is permissible if the case conference committee determines it is needed. D. McGrath stated that not every assessor is a good assessor so oftentimes the IQ score that is obtained is not a true measure of the child's capability. Dr. Steck referred to 511 IAC 7-41-3(e). Dr. Steck disagrees with the decision to remove the mandate to administer a norm referenced assessment but especially the removal of it from emotional disability, autism spectrum disorder, and other health impaired.

C. Hardy Hansen asked what would happen if the cognitive assessment does not take place. Dr. Steck stated that because there has been less focus on cognitive skills, cognitive skills need to be looked at to assess the child for the future. Dr. McGrath stated that there are some states that do not recognize cognitive assessments.

Discussion ensued about eligibility, cognitive and IQ testing.

K. Farrell asked about the impact this change would have on the student's eligibility for Vocational Rehabilitation or enrollment into an institution of higher education. B. Marra said if VR or the IHE wants it then they should be required

to pay for it and/or conduct it themselves. K. Farrell asked if the parent would have to give approval for the cognitive assessment. B. Marra stated yes, you would be required to have the parent's permission in order to conduct the assessment.

S. Tilden asked if they were going to be allowed to do the evaluations before the case conference committee meeting. B. Marra stated that you get the referral, then you determine what the need is or which assessments are needed, then you give the parent prior written notice based on the request of the referral (and seek written permission for the assessment to move forward).

Discussion on the proposed language at 511 IAC 7-41 concluded with comments from B. Marra who then asked the Council to think about these issues presented and prepare to vote at the next meeting.

B. Marra thanked the representatives from the Rule 26 committee for coming before the Council today.

Meeting adjourned at 3:35 p.m.