DRAFT

STATE ADVISORY COUNCIL ON THE EDUCATION OF CHILDREN WITH DISABILITIES

August 24, 2007
Carmel Clay Educational Service Center
Indianapolis, IN

ADVISORY COUNCIL MEMBERS PRESENT:
B. Marra, G. Bates, R. Burden, D. Downer, C. Endres, K. Farrell, D. Geeslin, B. Henson, R. Kirby, B. Kirk, K. Mears, J. Nally, M. Ramos, C. Shearer, J. Swaim, J. Swiss, S. Tilden, S. Yoder

ADVISORY COUNCIL MEMBERS NOT PRESENT:
J. Hammond, C. H. Hansen, M. Johnson, B. Lewis, D. Schmidt, A. Shields, T. Wyatt

DEPARTMENT OF EDUCATION (DEL) STAFF PRESENT:
K. Bassett, N. Brahm, S. Knoth, T. Rinehart, B. Reynolds

VISITORS:
Kathryn Lee (ICRC), Mary Jo Germani (ISHA), Dee Kempson (IDOE), Margy Jones (Parent Attorney), Jennifer Akers (Family Voices), Deborah Harman (ISHA), Rylin Rodgers (Parent), Liz Freeman Floyd (Autism Society/Parent), Susan Lockwood (IDOC)

INTERPRETERS:
Amy Evans
Rebecca Madigan

MEETING
K. Farrell opened the meeting at 8:55 a.m.

MINUTES
B. Kirk requested that the following correction be made to the minutes on page three, the third paragraph: "parental involvement for parents with special needs" changed to "the involvement of parents of children with special needs."

The minutes from the June 15, 2007 meeting were approved as corrected.

BUSINESS
B. Marra described the proposed timeline for the reauthorization of Article 7. He has been to the State Board of Education's 'de-regulation' group in order to meet with the committee that will be responsible for reviewing the proposed language

for Article 7. B. Marra will meet with the committee on a regular basis to ensure they are kept apprised of the proposed changes.

B. Marra stated that public forums will be held September 18-20, 2007. B. Marra referenced a survey that will be used to prompt discussion for the public meetings. This survey will contain key points such as timelines and evaluations and will be available to the public and all other agencies as well. S. Knoth added that the flyers for the public forums can be found on the State Advisory Council website. R Kirby added that she would like SAC members to attend the public forums that are scheduled near their individual community. She added that the dates will be posted on various web sites. B. Marra noted that there will be two sessions a day at each site. R. Kirby stated that there is a Saturday, September 15th session in Lafayette, Indiana. B. Marra said that he hopes that after the forums the Council will then be ready to meet in October in order to review the input and comments received along with a final draft of Article 7.

B. Marra indicated that he would like to add an additional meeting in September and additional meetings in October. Discussion ensued with regard to optional meeting dates. C. Shear motioned to accept September 24th, October 17th and October 23rd as additional meeting dates to the current schedule. J. Nally seconded. Motioned carried.

The revised schedule of meeting dates for the State Advisory Council will be as follows:

Friday, September 7, 2007
Monday, September 24, 2007
Friday, October 5, 2007
Wednesday, October 17, 2007
Tuesday, October 23, 2007
November 2, 2007
December 14, 2007.

B. Marra provided the Council with an overview of the Butler Symposium, which was attended by 600 school personnel on August 1st and 2nd, 2007. He indicated that he received positive input and comments on the proposed language.

B. Marra stated that he would like to have the Article 7 draft complete by the October 23rd meeting to present to the Indiana State Board at its November meeting.

K. Farrell asked what rules were left to be reviewed. N. Brahm stated that Rule 22, 26, 28, 29, and 31, several sections of Rule 21, Section 8 of Rule 25, Section 9 of Rule 29, and a new rule regarding state financial supports for intensive services (this replaces the section in Rule 27 regarding alternative residential placements the end were in need of review.

B. Kirk requested that the Council receive two copies of the Rule, one with the mark-up shown (strikeouts and additions) and one that is clean.

B. Kirk asked for clarification regarding the November 2nd meeting and whether the Council would be voting on the whole Rule. B. Marra indicated that a vote on the whole rule at the November 2nd meeting was the goal and if that vote didn't occur, a second date in November would need to be scheduled in order to take a vote.

D. Downer asked whether the Council will discuss any comments that are received at the public hearings. B. Marra affirmed that they would and would also discuss the data collected from the fiscal impact study.

RULE ~~25~~ 40 IDENTIFICATION AND EVALUATION

Nina updated the SAC on what was discussed at the last meeting.

N. Brahm explained the changes to re-evaluation. The Federal language stipulates that unless the state has language specifying otherwise, evaluations must take place within 30 calendar days.

C. Shearer asked the reason for re-evaluation. N. Brahm said that it is not a standard decision and gave an example of a situation where a re-evaluation might occur when a determination about assistive technology might need to be made. K. Farrell gave additional examples of reasons for re-evaluation.

B. Kirk asked for clarification for moving to a 40-day timeline as opposed to a 60-day timeline. B. Marra stated that with the development of RTI, the information needed for an evaluation will already be available and that if additional data is needed, it can be retrieved within the 40-day timeline. The goal in reducing the timeline is that the information will be fully in place before the evaluation occurs. Additionally, with a shorter period of time, evaluations should occur when they are needed, and not when the need has passed. B. Kirk inquired as to the public response that was received and questioned whether the responses were considering the old language instead of the updated language. B. Marra said that some of the responses might not be taking into account the new language. This language will help drive the emphasis of instruction.

K. Mears asked how this will impact ISTEP testing. K. Farrell stated that best practices should be applied. K. Mears said that she thinks that the standardized testing drives labeling of students. Students are unable to receive accommodations unless the label is placed on them, which requires the multidisciplinary assessment (and is not necessarily best practice, and contrary to the concept of response to intervention). It would be more prudent to permit students to receive accommodations without requiring a special education label.

B. Kirby noted that “For” should still be included in the language at subsection (c).

K. Farrell called for Motion to accept language of Rule 40.

J. Swiss motioned to approved language at 511 IAC 7-40-8. John Nally seconded.

15 Approved. Motioned carried.

RULE ~~21~~36 GENERAL ADMINISTRATION OF PROGRAMS

N. Brahm explained that the language for ‘NCLB Highly Qualified’ is discussed under Rule 32 and that ‘IDEA’ is discussed in Rule 36.

511 IAC 7-36-3 Highly Qualified

B. Kirk asked whether Institutions of Higher Education have implemented the language at (d) to ensure that graduates from special education licensure programs are highly qualified. J. Swiss indicated that some have but most teachers leave the special education licensing program prepared to collaborate or co-teach. K. Farrell indicated that many special education teachers are co-teachers who work within the general education classroom in which highly qualified general education teachers provide the core instruction and therefore, the special education teachers do not need to be highly qualified.

K. Mears motioned that language be accepted at 511 IAC 7-36-3. S. Tilden seconded.

15 Approved. Motion carried.

511 IAC 7-~~21~~36-~~6~~7 Instructional curricula, materials, equipment, and assistive technology devices and services

B. Marra discussed the language and NIMAC/NIMAS. B. Marra discussed language at section 7, subsection (h)(2). The purpose of this legislation is to ensure that students receive print instructional materials in accessible formats. There is a clause in the law that ensures that schools do not withhold print instructional materials from other students until those print instruction materials in accessible formats are available. It is under the concept of ‘timely manner’. Discussion ensued with regard to copyright laws and locating people/agencies to translate the materials. B. Marra stated that it is mandated that every school buy that material for every student.

K. Farrell asked for clarification. N. Brahm stated that if material is needed and is available, the school will receive the material in the necessary format but if the material is needed for a print disabled student, the school must prove the necessity of the material.

J. Swiss motion to accept language at 511 IAC 7-36-7. Seconded by John Nally.

15 Approved. Motion carried.

511 IAC 7-~~21~~36-~~9~~10 State and local assessments

N. Brahm discussed the changes to the language and said that in a couple of years, there may be a new alternative assessment form based on alternate modified assessment.

N. Brahm stated that language that referred to the criteria for ISTAR is not included because ISTAR may change. The language at (i) will ensure that the agency did inform the parent of the child's educational tract through their assessment. K. Farrell inquired as to how special education personnel assured students (and their parents) that participate in modified standards that they may still get a diploma. B. Marra stated that the decision was ultimately one the State Board would have to decide. K. Farrell stated that as a state agent, schools need parameters to give to the parents.

B. Marra indicated that he recommended that there be an assessment for all grade levels and testing. The key to this assessment is that the student actually has to take a test other than ISTEP. K. Farrell indicated that student sometimes have to show their work. She wanted to know if showing their work might be an example of this language. S. Knoth stated the plans are not yet developed but that there are considerations of work demonstration beyond simple pencil and paper demonstrations. Discussion ensued with regard to 2% assessment versus ISTEP.

K. Farrell called for motion.

G. Bates motioned to approve language at 511 IAC 7-~~21~~36-~~9~~10. J. Nally seconded.

Motion carried.

511 IAC 7-~~22~~37-1 Notice of procedural safeguards

N. Brahm reviewed the proposed language.

S. Yoder inquired with regard to public benefits and public insurance at f(2)(e). N. Brahm said that public agencies have to obtain consent prior to accessing

public or private insurance benefits. S. Yoder stated that she feels it should read public and private insurance.

J. Nally motioned to accept language at 511 IAC 7-37-1 as amended by S. Yoder. Seconded by J. Swaim.

14 Approved 1 Abstention.

Motion carried.

RULE ~~31~~46 CHILD COUNT AND DATA COLLECTION

N. Brahm said the only change is the language that states that race, gender and ethnicity be reported for early intervention and disciplinary actions. The language on page 114, that says "where the child count states 'and is receiving services' on that date" refers to the fact that the child is enrolled (has an IEP in effect) on December 1 (not physically in school).

J. Nally made the motion to accept the language a 511 IAC 7-46. J. Swiss seconded.

16 Approved. Motion carried.

RULE ~~27~~42 DETERMINATION OF SPECIAL EDUCATION SERVICES

511 IAC 7-~~27~~42-1 Local procedures and training

N. Brahm gave an introduction to the rule and stated that she feels that this is the most important section of Article 7 Discussion ensued with regard to training of foster and surrogate parents and federal definition of parent. S. Yoder stated that she would like foster and surrogate parents to be trained on Article 7.

K. Farrell asked if there were any other questions on Section 1.

J. Nally motioned to accept language 511 IAC 7-42-1. J. Swiss seconded.

15 Approved. Motion carried.

R. Burden asked for a friendly motion that the minutes reflect that the local policies and procedures for this section will be developed by the DEL and offered as samples for schools to adopt or modify.

511 IAC 7-~~27~~42-2 Notice of case conference committee meetings

S. Yoder asked for clarification on the term 'mutually agreed upon'. She feels that there should be parameters built into the language to consider the parents'

work schedule and/or other similar issues. D. Downer concurred that there are some districts that refuse to hold meetings after 5 p.m. because of contractual union language. C. Endres stated that it is futile to have non-enforceable language written into a rule. J. Swaim questioned why there couldn't at least be a statement regarding the parents' schedule. Discussion ensued on assurance that the parent's schedule be accommodated.

B. Marra said that this question could be added to the parent survey as to if they feel they received appropriately scheduled case conference committee meetings. J. Swiss asked whether there could be a definition that addresses this concept.

K. Mears recommended that a (c)(3) be added to include non-public schools receipt of notice. Discussion ensued on the how the language should read.

C. Endres motioned to accept amended language for 511 7-42-2. Second by K. Mears. S. Yoder asked if this motion incorporated language for the 'mutually agreed upon' issue discussed previously. B. Marra said that as currently amended, it did not include said language.

8 Approved; 5 Opposed

Motion Carried.

Chair stated that she does not feel as though there was full understanding on what was being voted upon and requested that this be tabled and revisited.

B. Marra asked that the Council review the section on case conference committee procedures (current Rules 27 and 28, proposed Rules 42 and 43) for the Council's next meeting and to be prepared to vote or amend the language as it is presented. The relevant pages are 65 through 111.

ARTICLE 7 COMMENTS FROM THE PUBLIC

Katherine Lee made comment that parents may file a complaint with the Indiana Civil Rights Commission.

Cheryl Shearer discussed a federal grant that the state has received to help develop non-traditional, intensive, community-based services. There are 40 different access points. She stated that in the five years that the grant is funded, the goal is to establish at least one access point in each county. She would like the SAC to suggest additional sites for these access points.

RULE ~~26~~41 ELIGIBILITY CRITERIA

N. Brahm explained the changes and the process of changes that a committee for Rule 26 put together. K. Farrell stated that the needs of the child should be

considered first. C. Shear agreed. B. Marra stated that some preconceptions are derived from scores rather than the child's actual progress and stressed that the child's specific needs should predominate over his/her general label. B. Marra stated that the use of RTI may help with earlier identification of services and may prevent referral of services during the school year. N. Brahm stated that the term re-assessment was redefined.

J. Swaim asked if a parent can request an IQ test. K. Farrell stated that she believed that was possible. D. Downer stated that instead of using IQ tests, First Steps utilizes cognitive assessments. B. Marra stated that this is a good point, that when parents receive papers for signature of tests, they should be advised as to why the evaluation is being referred. Professional judgment should be used and data should be carefully considered. B. Henson would like to applaud the committee on the change in this rule to consider the students' individual needs rather than their labels. D. Geeslin stated that when considering an IQ test for the deaf and hard of hearing, the written test is better, if not equal to the verbal test. Written form should be considered in evaluation deaf and hard of hearing rather then the verbal form.

N. Brahm referred to the Eligibility chart that was distributed at the June 1st meeting of the SAC. D. Geeslin stated that he has some suggestions to change the chart. N. Brahm responded that a change in the chart would require a change in the language as well. N. Brahm explained the language at 511 IAC 7-41-4(b)(3).

C. Endres stated the chart is used more as a tool guide and can be changed but the language is what needs to be considered. N. Brahm stated that the language at 511 IAC 7-41-4(b)(6) "inform the student's case conference committee of the student's special education and related services needs" is at the end of each section of the rule. If additional information is needed, it should be obtained.

S. Tilden referred to the Civil Rights Commission Steering Committee and that the discussion currently regards whether the disproportionality issues will change with the changes to this rule and what aspects of cultural diversity will be related. N. Brahm stated that under the rewrite of the eligibility criteria for learning disability, case conference committees will not be able to find that a student has a learning disability if the public agency cannot demonstrate that the student received adequate instruction in reading and math. B. Marra stated that RTI will be helpful in providing data to demonstrate adequate instruction.

D. Geeslin said that he would like to refer back to Section 4 (a)(3). He is not in agreement to verbal and that it does not always refer to spoken. He would like to change verbal to spoken. J. Swaim asked why spoken not oral. D. Geeslin explained that the difference between spoken and oral is that oral refers to a philosophy while spoken means a child, although deaf or hard of hearing, may actually speak the English language. D. Geeslin said that spoken would be all

inclusive. D. Geeslin motioned to change “verbal” to “spoken” and “systems” to “language” at Section 4(a)(3). N. Brahm stated the language in (3) is not in the federal language. C. Endres seconded motion.

D. Geeslin explained why he prefers “language” over “systems.”

J. Swaim stated that this change makes it more difficult to understand the language.

K. Farrell called for vote.

7 approved; 0 opposed; 8 abstained.

Motion defeated

The Chair requested that the motion be tabled. The Chair requested that the survey be revised to obtain input on the proposed amended language under deaf or hard of hearing. N. Brahm said that M.J. Germani, ISHA, and D. Geeslin will be contacted to review the proposed language.

K. Farrell called for motion on RULE ~~264~~1.

S. Tilden motioned to accept language with the respect that additional information will be brought back to the SAC. K. Mears seconded.

K. Farrell called for vote.

13 approved; 1 opposed; 1 abstention

Motion carried.

Public Comment

No comments were made.

Meeting adjourned at 3:25 p.m.