

**APPROVED MINUTES
INDIANA STATE ADVISORY COUNCIL ON THE EDUCATION
OF CHILDREN WITH DISABILITIES
(SAC)**

**November 6, 2009
Carmel Clay Educational Service Center
Carmel, Indiana 46033**

Council Members Present: Richard Burden, Helen Coldiron (sitting in for Kellie Calita), Dawn Downer, Christina Endres, Karol Farrell, Pam Burchett (sitting in for David Geeslin), Marcia Johnson, Rebecca Kirby, Lisa Kovacs, Bret Lewis, Kathy Mears, and Kristi Tesmer.

Council Member Apologies: David Geeslin, Bessie Hensen, Becky Kirk, John Nally, David Schmidt, and Jane Swiss.

Council Members Absent: James Hammond, Cathlene Hardy Hansen and Thelma Wyatt.

Department of Education Employees Present: Shawnee Ames, Becky Bowman, Ryan Brown, Greg Cochran, Lee Ann Kwiatkowski and Dr. Dawn McGrath.

Visitors Present: Janine (Jan) Huffman, Margaret Jones, Patricia Pierce and Steve Wornhoff.

Interpreters: The 2 interpreters were released after realizing no one would need their services.

The meeting was called to order by Dr. Farrell sitting in as Chairperson for the State Advisory Council Chairman, David Schmidt, at 9:10 am.

I. WELCOME

Farrell welcomed the State Advisory Council Members and all visitors. Farrell introduced McGrath and Ames, who being new, said she would be taping the meeting. Farrell asked everyone in the room to introduce themselves.

Farrell asked the council if 9 members present were enough to proceed.

The consensus was to proceed with the meeting even though a quorum was not present.

Future meetings held at the Carmel Clay Education Center were discussed because of the grant ending for ISEAS. Ames had spoken to Joyce Meyers at the Center and was told that the next meetings, February 5, 2010 and May 7, 2010 have been reserved. However, future meeting dates at the Carmel Clay Center will need to be discussed before the end of the school year.

II. Minutes from August 14, 2009

The minutes from the meeting of August 14, 2009 were reviewed and asked by Farrell for recommendations of approval. Kirby stated there were a lot of errors in the minutes and should be rewritten for public viewing. McGrath explained that when Reynolds returned to work after the August 14 meeting to discover her position was terminated. Therefore, she wasn't able to rewrite the minutes. McGrath stated that it would be helpful to have the council's assistance to capture accurate minutes. The council attempted going over the minutes, however, decided it would be too time consuming. They decided it would be better to rewrite the minutes for approval for the next meeting, February 5, 2010.

Kirby motioned to approve minutes at the next meeting.

Lewis seconded the motion.

All approved. 1 abstained, Burchett (sitting in for Geeslin).

(Huffman asked if she could abstain as well; explaining that she was a visitor but a potential member. She was told no because she had not been appointed to the council yet).

All voted yes and the motion carried.

Farrell announced that Bowman and McGrath had to leave for another meeting and asked if the agenda could be rearranged to accommodate them. The answer was unanimously yes.

Therefore, the agenda was changed and item #8 was moved up.

Bowman began by saying the Council could not vote because there were not enough members present. However, she noted there was a need for comments even though NO formal actions could be taken. Therefore, no motions or voting took place from that point on.

VIII. Board of Special Education Appeals'

Bowman described the rule making appeals with special education due process. She explained that the Federal rules do not require 2 tiers and most states only have 1 tier system. Bowman stated 2005 data showed an average low of 4 appeals to an average high of 10 appeals in 2007. For the most part the hearing officer's decision is usually upheld, and it is rare that the decision is overturned.

Question: It was asked if there were any specific data on how often decisions were overturned. Bowman gave a few examples: in 2007 there were 10 appeals, 7 were upheld entirely while the others were modified. In 2008 there were 4 appeals, 3 were upheld entirely and the other one was modified. What they did was rescind the findings as a cleanup. In 2009 there were 8 appeals; some are still pending and 1 was dismissed. Bowman commented that the impact on the outcome for the student would depend on the nature of the dispute. She stated that if the parent prevailed, service would continue, if the school prevailed then a new IEP would take effect (examples

were discussed). It is the DOE's responsibility to make sure the hearing officers do their best job and train them up front. Bowman noted that a former federal judge has agreed to take an assignment as a hearing officer and would be starting soon.

Bowman remarked that once the 2 tiers has to be approved by the State Board of Education; it then goes to public comment of which then has to be approved by the Attorney General's office.

Farrell commented that she had brought questions to the round table and found opinions to be mixed. Some are in favor of change and some are in favor of retaining the current process. Their reasoning was that it's not causing harm so why change it. When you get to a due process level it becomes contentious and increases higher levels of anxiety.

Bowman stated that the highest number of appeals has occurred in 2009 which has had 10 appeals. She was asked how many of those resulted in decision and what was the percent that resulted in a decision? Bowman said she would get those figures to McGrath which gives a clearer picture.

Endres asked Bowman how many decisions go on to court and then what happens to them? She said she didn't know historically but she knew of 1 record that DOE had to certify for the court. She noted that before she came to the DOE there was one that went to court but was dismissed. She said she would check into it and let everyone know via email.

Farrell asked about the cost benefit analysis from last August.

Bowman said that would be too difficult to do, however, the cost savings to the state was minimal.

Burden commented on the cost analysis.

Farrell asked for public comments:

So the question was asked: What if the middle class parents cannot afford to retain counsel?

One answer was that, in some cases the parent may feel it is much better going before the board than going to court.

Pat Pierce from Crown Point, Indiana, Special Education Director distributed a letter to the SAC dated November 6, 2009 regarding the review of Rule 7-45; where the elimination of BSEA is being considered which would become a major cost impact on schools and parents. With this letter Pierce was requesting the voice of the State Advisory Council if hopes that it not be eliminated from Article 7. Her handout summarized findings from 1997 to 2005. Therefore, she felt that the hearing officers are making good decisions and the BSEA supported the facts. She stated that she hoped the DOE would work with the local schools and parent groups to better develop mediation and resolution options that would save money.

Lewis asked Bowman when this would be in effect. She stated that after it goes to the Office of Management and Budget it will probably be effective late next summer.

Jones, a parent and an attorney that she supported getting away from the board of appeals; she noted that many parents have said they would rather go to federal court because the judge is more versed. However, if the BSEA judge passes the case along then the parent has to get another attorney which just adds extra time and expense. Therefore, does the parent want to take that route?

Tesmer discussed again the issue about some parents not able to afford attorneys. She stated that she had been on the other side realizing that parents need the support of the board if they cannot afford an attorney.

Endres cautioned that they really need to know what the rationale is before they go away from the 2 tier system. Economically based decisions have not been a strong suit and we don't want to do what other states have if it's just economics driving the decision. We need to have solid reasons; understanding the issues parents have. She wouldn't want to do it if she were a parent going from middle class and being referred to legal aid; and besides legal aid may not have attorneys that will give them the adequate legal representation. There is no economic value to DOE to get rid of it plus parents don't trust it so concern is biased and we need more mediation. All this need to be addressed and looked at before it's decided.

Bowman said that was a good thought but if the relationship has already broken down then mediation may not work anyway. Mediation has always been encouraged through INSOURCE and the department using collaboration to avoid aversion where someone wins and someone loses. Mediation really helps in that everyone comes out winning.

Farrell said she had participated in mediation, some have been successful and some had not.

Burden agreed that sometimes it's about process and on both sides of the table parties disagree understanding that the further we get away from the table the less involved people who make this issue will not know because they were not part of what led up to this. The better job that can be done early on will be better for everyone. All parties need to know what they are doing. He stated that being a parent makes this more real and should be looked at again.

Huffman asked about the time frame from going through the tiers to the appeal process to the district court? She asked if it would it help families to go straight to court.

The answer was no that the court is not subject to the 30 day time line. There is a 30 day timeline to appeal through BSEA only. Article 7 requires that the appeal needs to be decided within 30 days.

Lewis brought up doing away with the rule or giving options to wave the right to BSEA.

Endres asked how can we alter the BSEA and how can we fix what we've got.

Bowman said she would investigate the option of choice for either BSEA or court as suggested by Lewis.

III. **Membership Status**

McGrath presented member list to the council for review. She asked the members to please look at the list to see if it is correct. She mentioned that some were on the list twice as they would represent 2 categories. She asked them to review the statute for member requirements.

Kovacs noted that parents needed to have a good representation making sure there is enough represented on the Council.

McGrath explained that the majority has to be parents. As soon as we know this list is correct we will seek appointment for others that have expressed interest and have been placed on a waiting list.

Farrell remarked how she's concerned about members that don't attend on a regular basis causing there not to be a quorum to vote. It was agreed that this needs to be addressed as well as the need for feedback on issues presented, therefore, regular attendance is crucial.

McGrath explained a new procedure for council members travel reimbursements and asked Ames to explain the new travel procedures for the council member's travel reimbursement. There were two forms explained: The Request for Vendor Information Form and The Vendor Invoice Form. She noted there were deadlines of completion for both and how they could return them to her for processing. She stated that she could email the invoice forms.

IV. **Positions in Special Education**

McGrath introduced Cochran and Brown explaining their positions at the DOE and their roles in the SAC meeting. She distributed the handout that she presented at ICSE regarding the new monitoring roles at DOE.

McGrath mentioned the two (2) new positions posted at this time; one is for Low Incidence/Autism while the other one is Performance Indicator and Related Requirements Monitor. She noted that her staff will be back up to 10.

V. **INRCIA**

Cochran discussed the IDOE's new discretionary grant process. The goal of the Indiana Resource Centers for Improvement Activities (INRCIA) will be to focus on six centers. The centers will be based on Positive Behavior Supports, Transition to Adulthood, Effective and Compliant IEPs, Effective Assessment and Instruction, and Effective Evaluations, and Autism.

A grant will be awarded for each of the six categories. The contact for the grant competition will be Kim Clement from the Indiana Department of Education. There will

be FAQ's posted online weekly. If you would like your question answered, it must be submitted by Friday, November 20, 2009. The deadline for applications is November 30, 2009. The notices for the second phase of select will go out January 1, 2010. The award announcements will go out in February 2010.

Cochran mentioned that Michael Craciunoiu on our team will be supervising the grants.

Farrell asked if there were any questions –no questions.

VI. On-site Monitoring Plans

Cochran expressed his enthusiasm about this new project that's getting started and will be lead by Bill Luther at DOE. The focus will be on LRE. All school corporations were evaluated through the application of a six step process which involved a combination of internal desk audits and on-site monitoring. The schools that will be monitored during this 2009-2010 school year have been selected.

Huffman asked Cochran if there was a list of the selected schools. He replied, Mississinewa, Options, New Albany, Lafayette, Warrick Co., Washington Township, Great Jasper, and West Noble.

Cochran stated that these school corporations received a letter of notification and will have their corporation's policies and LRE data analyzed through a desk audit process.

It was explained that The PATINS project team would be working with other qualified people from DOE. The PATINS grant will help with the technologies support.

Farrell asked if there were any questions – yes

It was asked if Charter Schools would be included in this process this first year; the answer was, yes (Options is a charter school).

PATINS were defined: Promoting Achievement through Technology & Instruction for all Students.

VII. DOE-SE and DOE EVAL/TR data reporting requirements

Brown gave some background of the federal indicators as it was relevant to his discussion of the DOE-SE and DOE EVAL/TR.

He spoke about the State's transition from using the CODA system to using the DOE's STN system for data submissions.

Brown said that the vision of the Department of Education includes reducing the clerical burden upon schools by bringing all data collection into one data submission method. On December 1, 2009 all data previously submitted through CODA will be submitted through the STN system (the DOE-SE report) for the first time. The required data fields and collection procedures were provided to the SAC.

Indiana is in the 3rd year of Needs Intervention. After the DOE sent findings of noncompliance to LEAs on August 31, 2009, Brown was in charge of making sure data

was accurately submitted for each LEA. Many of these instances of noncompliance were due to clerical error or misreporting. Statewide, compliance data has been slightly less than the recommended 95%, and the switch to more accurate data should make a positive impact in the State's compliance rating.

Brown reported that many of the fields for the DOE-SE will not change. The biggest changes will be the addition of the DOE EVAL/TR report, which will track the transition and evaluation compliance data that were tracked by CODA.

Previously, Brown discussed the schools that used the CODA system to submit data, LEAs submitted their instructional calendar, entered evaluation and conference dates into CODA, and had to verify whether or not the compliance date was met. This will be automatically calculated when the data are input in the STN system.

Farrell asked for questions -yes

Lewis asked about the employees that will need to do the huge stack of STNs (specifically his employees). He says the increased reports are mind boggling.

Brown said that CODA was using a software program called FoxPro which basically is not used anymore. We at DOE have been trying to find FoxPro programmers to help with this data but we haven't as yet.

Endres asked Lewis if these reports were new to his employees and if they were employees dedicated to doing the reports also if the STNs were new.

Lewis said the reports were not new, however, there was more data being requested.

Tesmer asked how people could get the information. The building level secretaries are entering STN data and do not know about the referrals so how do we get the accurate data so that it won't impact funding for our children.

Tesmer asked why this was coming to a head so suddenly. She said she wanted to make sure there was enough money to serve her child.

Kwiatkowski noted that the federal government found discrepancies from the CODA data compared to data that the school corps was reporting. Therefore, they highly recommended getting to one system. She stated that this has been in the works for the last several years.

Kwiatkowski stated that is the utmost priority to make sure the child count data is accurate to make sure every school is given every penny they should receive.

Kovacs wanted to make sure that enough money is given to serve the kids from October to December 1.

Tesmer asked about the time frame from October 5th to 16th will they get funding to serve her child.

Farrell mentioned that there is a certain date that schools are to report their data. She supports the DOE in merging the systems so data collection is not redundant. She also

noted that not all the funding is by the STN number since federal grant dollars are based on census and poverty data.

Endres mentioned that Michael Craciunoiu is working to find discrepancies between reports.

Kwiatkowski stated that we are required by State and Federal Law to collect these reports.

Johnson asked if the data and information requirements could be centralized. Once centralized the different reports could be created from that one data location.

Burden agreed that at the end of the date we need to get a system into place and it has to accurately work.

Mears also agreed that this needs to work because we need to have the funding since it is tied into the funding process.

Kovacs asked Brown if this new system would be able to help us get good data.

Brown spoke about bringing all this into one data station through the system which will allow us to know what is available. It has been difficult to compare general education to special education, but hopefully we will be able to collaborate with this new system.

Tesmer noted that she would like to get online and look at the whole group to see how they are doing.

VIII. Information on Correction Status of Specific Corps

Brown spoke on the tiers of corrective intervention, and how this is the first year where the Department of Education has been able to take a look at the root-causes of findings in-depth prior to assigning corrective action.

In March, during the local determination process, they were taking a look at the school corporation's data to demonstrate the correction of noncompliance. LEAs had one year to verify that the finding had been corrected. This process was extremely important, as it was tied to the distribution of the stimulus funds.

Brown went over the Corrective Intervention Tiers handout (included in meeting packet) and explained his findings based around data that ranged from April 1st to June 30th. At the end of the school year this time period served as a good sample of data for a school corporation that was out of compliance, and the severity of a LEAs corrective action is based on their compliance during this time period.

Reasons for Noncompliance:

Indicator 9 – 1 finding,

Indicator 10 – 3 findings,

Indicator 11 - 182 findings,

Indicator 12 - 91 findings,

Indicator 13 - 94 findings.

Indiana previously had approximately 338 LEAs participating in correction action. This year there are 200 LEAs that need to receive corrective intervention and will be more manageable. The monitoring team has been helping LEA's define the problem and come up with a plan for intervention.

Brown reported that Indiana has 15 schools that will receive the most severe interventions for uncorrected noncompliance. Of these 15, 13 were due to a failure to correct Indicator 11 noncompliance. 89 LEAs did not receive a finding and will not have corrective action.

Brown was asked if these findings could be seen online and he shared that this information is not posted but the raw data is posted. He gave the website address for the monitoring links for public reporting.

Farrell asked if there were any questions – no

X. Explaining APR and Our Plan for Writing it

Cochran told how the APR is due every year Feb. 1st 08-09 which is due 2010. He explained why the data is turned in 1 year behind. All indicators will be addressed; each indicator will be explained how the data is collected. Cochran and Brown will be starting earlier this year (8 of 20 drafts done now). Once completed, they will review the SPP and preparing to make updates. That's another public document that you can look at it online. He feels really good about the progress of this project.

He asked if anyone had any questions about the APR or SPP. Indicator 11 says 60 days but the actual State Law according to Article 7 says 50 days. We are judged by the 50 day timeline.

It was asked when he would be sharing the data with the group? Mr. Cochran said he would check into it.

Farrell asked if there were any more questions or comments and if there were any other items to be added to the Agenda - yes

Lewis asked Farrell what impact would dissolving ISEAS have and would it have a negative impact on the SAC?

Kwiatkowski answered that ISEAS had supplied McGrath with a list of what they did and offered to get them a copy of the list.

Burden asked about the advisory council and its advisory capacity. He stated that there needs to be more discussion about the role of the State Advisory Council.

Farrell mentioned that if you wanted to submit an item to go on the agenda, give it to McGrath and/or Ames. Farrell was confident they would get it on the Agenda in a timely manner.

Business:

There was a comment of appreciation regarding the meeting materials being available in advance. It was requested that the links talked about today would be included in the materials next time so members can look at them prior to the meeting.

Farrell adjourned the meeting at 11:37am.