

Indiana State Advisory Council
on the Education of Children with Disabilities (SAC)

March 5, 2010

Approved May 7, 2010

Carmel Clay Educational Service Center
Carmel, IN

Advisory council members present:

Rich Burden, Director, IN*SOURCE
Dawn Downer, Director, First Steps
Christina Endres, McKinney-Vento State Coordinator, Indiana Department of Education (IDOE)
Acting Chairperson – **Dr. Karol Farrell**, Director of Special Education, MSD of Washington Twp.
Dr. David Geeslin, Superintendent, Indiana School for the Deaf
James Hammond, President/CEO, INARF, Inc.
Jan Huffman, Attorney, Office of the Attorney General
Becky Kirby, Executive Director, About Special Kids (ASK)
Becky Kirk, Parent Representative
Lisa Kovacs, Program Coordinator, Guide by Your Side
Dr. J. Bret Lewis, Superintendent, South Montgomery Community School Corporation
Dr. Jane Swiss, Dean, University of St. Francis School of Professional Studies
Kristi Tesmer, Parent Representative

Advisory council members not present:

Shirley Amond
Kellie Calita
Julie Havill
Cathlene Hardy Hansen
Bessie Henson
Marcia Johnson
Kathy Mears
John Nally
David Schmidt
Thelma Wyatt

IDOE Personnel Present

Ryan Brown, Office of Special Education
Greg Cochran, Office of Special Education
Anne Davis, Office of Special Education
Michael Douglas, Office of Information Technology
Dr. Dawn McGrath, Coordinator of Special Education
Susan Reimlinger, Office of Special Education
Matt Tusing, Office of Legal Affairs

Interpreters:

**Carrie Westhoelter
Lena Van Manen**

Meeting:

Welcome:

K. Farrell, Acting Chairperson, called the meeting to order at 9:06 p.m.

K. Farrell asked for opinions from the members as to the provision of lunch for the meeting. B. Kirby suggested the group pause at 11:30 a.m. in order to reconsider. K. Farrell consented, and noted there would be a restroom break at 10:15 a.m.

K. Farrell proposed the membership of the Council to open the discussion to visitors at the end of the Council's meeting, nods assented.

Announcements:

D. McGrath, stated that Dr. Tony Bennett, Superintendent of Public Instruction, plans to attend the next Council meeting. R. Burden asked for the date of the next meeting, D. McGrath stated it will be held on May 7, 2010.

D. McGrath stated that there was public hearing on the proposed changes to LSA Rule No. 09-795, the elimination of the board of Special Education Appeals (BSEA), on February 22, 2010. D. McGrath also noted the topic was open for public comment via the IDOE website.

Minutes:

K. Farrell proceeded to the approval of minutes from the August 14, 2009 and November 6, 2009 Council meetings.

M. Tusing stated the Council was one member short of a quorum and needed at least one more member to arrive in order for the previous minutes to be approved. K. Farrell postponed the approval of the minutes until more members arrived at the Council.

Responses to Requests from Last Meeting:

K. Farrell requested that D. McGrath respond to the Council's requests from the last meeting. D. McGrath responded that the BSEA was addressed during the Council's announcements and membership roles of the Council would be discussed during the remainder of the meeting.

B. Lewis asked if D. Schmidt would remain the chairperson of the Council, K. Farrell tabled the question for the discussion on Council membership.

Review SAC Regulations:

K. Farrell introduced M. Tusing from the Indiana Department of Education, Office of Legal Affairs, to review the Council's regulations and parliamentary procedure. M. Tusing stated that the Council was a statutory body, with all members appointed by the Superintendent of Public Instruction.

M. Tusing directed the Council to view subsection "D" of the handout that was provided to Council members for the discussion on the rules of the Council and its charges. M. Tusing stated that the main role of the Council is to advise the State Board of Education (SBE), the Superintendent of Public Instruction and the IDOE. He noted the charges of the council also included recommending plans for approval or rejection, addressing the unmet needs of the special education community and providing public commentary on proposed rules.

B. Lewis asked if it was the role of the Council in providing public commentary to forward and relay public comments provided to Council members to the IDOE. M. Tusing affirmed.

J. Hammond asked for clarification about the statute surrounding the approval and rejection of cooperative plans. D. McGrath explained that the presentation of cooperative plans to the SAC was not mandatory.

J. Hammond mentioned the reorganization and changes to many special education cooperatives and suggested the Council review and give feedback and advice to cooperatives during restructuring, Council members assented.

B. Lewis stated that he thought there was a former function where standalone LEAs were reviewed. He also asked if there was a formalized commencement of new entities and groups. D. McGrath stated that LEAs are free to go independent and organize as they see fit.

D. Downer suggested reviewing presentations by cooperatives and LEAs would be helpful and would allow the Council to look at comprehensive plans of new entities to get a better picture of the needs of the State. B. Kirk agreed, stating that the entities must be accountable so needs are met. D. Geeslin also supported D. Downer's suggestion, stating that the Council can provide individual expertise and feedback to new entities about the provision of services.

K. Farrell asked if new charter schools would also be asked to present to the Council. C. Endres said charters are LEAs, and have to follow the same procedures, so they should be included.

B. Lewis asked for clarification as to if the entities would be required or invited to present. M. Tusing confirmed the Council would have to invite the LEAs to present to the Council.

K. Farrell reminded the Council that the language of the Indiana Code is for the Council to be advisory to the SEA. If there are troubling elements of a new entity's comprehensive plan, the Council can bring that to the attention of the SEA.

Ms. Endres stated that the Council needed to be clearer about what it wants from the SEA. The Council was more directed during the Article 7 revisions, and the purpose of the Council has since become less clear.

B. Lewis stated that his corporation experienced a 300 million dollar budget cut for public schools. B. Lewis said knowing the impact and fallout of budget cuts is important, and the Council should look at what the LEAs will not have based on a lack of resources.

R. Burden acknowledged conversation about the Council's purpose had begun again, but the usefulness of the Council's advice was unclear. He asked for more information as to how the advice is being used.

M. Tusing clarified that the SBE changes the rules, but the role of the Council is to advise the SBE on potential changes.

R. Burden asked when the advice from the Council should be engaged or requested. M. Tusing stated that the advice of the Council never has to stop before promulgation of a rule. He stated that the council can provide advisement before or after the SBE's filing of intent to change rule.

B. Lewis asked if the ongoing Council meeting was the appropriate venue to provide commentary about the elimination of the BSEA. M. Tusing advised that the public comment period is closed, but the Council could still provide advice to the SBE on the change.

Ms. Endres asked for an update on the changes to the rule. M. Tusing noted the SBE could vote as early as April, or up to one year after the filing of the changes.

K. Farrell said there were still questions about how and why the topic was reintroduced for discussion. K. Farrell said in 2008 during the revisions to Article 7, the Council proposed a change in the language of the BSEA but not to eliminate it. K. Farrell noted she had the memorandum from Becky Bowman, General Counsel of the IDOE, about the BSEA and would review it over a break.

SAC Membership and Attendance:

M. Tusing stated that the members of the Council must be residents of the State of Indiana, representative of the population and with involvement or a concern for students with disabilities. Tusing noted the body should have at least 17 members, a majority of which to be parents of persons with disabilities or persons with disabilities.

L. Kovacs said that as a voting body, parent representation was present in the Council, but parents serving in an additional professional capacity were not always well represented, and she was concerned not enough people served solely as parents on the Council.

B. Lewis asked if there was a requirement for members to be physically present in order to be a voting member of the Council. M. Tusing clarified that members could receive information if not present but could not vote.

D. McGrath asked for clarification as to what qualified as a quorum and if a majority or unanimous consent is required for action.

Consideration of Creation of Bylaws / Continuation of SAC Membership and Attendance:

D. Downer suggested the Council define quorum and voting rules when the Council creates bylaws to define if a majority of consenting members or majority of consenting members present is required for action.

M. Tusing explained that it is the option of the Council to choose the manner in which it will conduct business and, having not adopted rules; the Council was free to do so.

Ms. Endres stated that during the Article 7 revision process, a lack of quorums by nonparticipating members held up the process.

B. Kirby suggested the inclusion of a protocol for the elimination of those who fail to fulfill the attendance requirements in the bylaws, if they are created, and for the Council to focus recruiting efforts on parent-only representatives as well as the key required members currently missing from the council. She recommended that these focused recruitment efforts begin after bylaws and expectations are set.

J. Hammond stated that state statute named several entities for participation in the Council have never attended despite the responsibility and participation would not have been included in statute if not important.

L. Kovacs stated that she felt it was a conflict of interest if a group is in a subordinate role to the IDOE (schools, grants) and it may be difficult to provide unbiased opinions or speak freely.

D. Downer stated that the majority of parents of students with special needs who are willing to participate in something like the Council are usually also engaged in special education in a professional role. She also stated that it was very difficult to engage parents thoughtfully and continuously if they are not involved in special education professionally. She also further stated that she feels individuals can put themselves into many different representative roles.

J. Huffman asked if it was the role of the Council to suggest members for recruitment. She said she worked with organizations with very active parents that would make good participants.

B. Kirk stated that it was helpful to look back on the history of the Council. She said that when the Council started, there were three parent representatives, three or four special education directors, agency representative and attorneys. B. Kirk said that being one of the only parent-only representatives during the Article 7 revisions was difficult because the perspective of administrators always outweighed her own.

B. Kirby stated that there was a negative perception in the community about the Council being biased due to a lack of parent-only participation.

Kristi Tesmer stated that school psychologists have approached the IDOE about non-representation of school psychologists on the Council, but the IDOE was looking for members with multiple roles. K. Tesmer said that in her opinion experience comes from a person's professional work and understanding comes from the parent perspective.

D. Geeslin said that everyone serving on the Council was there because of their passion for children and having people with professional and personal experience can help groups look at both angles. D. Geeslin said that everyone always has their own perspective, views and experiences to contribute to the group.

K. Farrell called for a brief recess at 10:16 a.m.

Consideration of Creation of Bylaws / Continuation of SAC Membership and Attendance, Continued:

K. Farrell returned the meeting to order at 10:30 a.m.

In summation of the Consideration and Creation of Bylaws discussion, K. Farrell suggested individuals from the council partner with D. McGrath and the IDOE to develop bylaws.

D. McGrath requested that M. Tusing clarify her role as the Coordinator of Special Education in support of the Council. M. Tusing stated that the Superintendent of Public Instruction shall designate a director to act as secretary to the Council to help the chairperson of the council organize the procedure of the Council.

D. McGrath stated that in the past, the IDOE set the agenda for the Council. M. Tusing responded that a board normally set its own agenda, with the chairperson leading the Council in setting the agenda and goals.

B. Lewis suggested the agenda could be set by the Council with advisement by the IDOE.

J. Huffman asked the Council who the designated chairperson was. K. Farrell stated that D. Schmidt is the incumbent chairperson and the election of chairpersons and co-chairpersons should be included in the bylaws.

K. Farrell stated that she felt in looking at the membership of the Council, it has a viable opportunity to be a useful resource to the State. She also stated that the Council should look at its functions to remain efficient to its responsibilities and processes. She suggested that as a group the council needed to discuss yearly goals on behalf of Indiana students and to keep the focus on the needs of students with disabilities.

ACTION

J. Swiss asked M. Tusing if the Council needed a point of action in order to formulate a subcommittee. M. Tusing confirmed. J. Swiss so moved, seconded by L. Kovacs, motion carried unanimously.

Funding of Excess Costs:

K. Farrell introduced Susan Reimlinger, Indiana Department of Education to discuss the funding of excess costs.

S. Reimlinger stated that she had worked in special education for 11 years, during which time the funding of excess costs meant many different things. She said the funding of excess costs was formerly known as the Alternative Residential program.

S. Reimlinger said that the IDOE does not directly provide services for high need students but instead funds the excess costs.

S. Reimlinger stated that many updates have improved the IDOE's funding of excess costs. She said in the funding of excess costs, a contract is sometimes not completed and there are extra funds leftover. S.

Reimlinger stated that the unused funds are now tracked and reused and she encourages LEAs to notify her when contracts end prematurely.

J. Huffman asked if funding of excess costs is only for residential placement. S. Reimlinger stated that the funding is for the provision of services beyond the normal scope of funding. The placement is decided by the case conference committee (CCC).

D. McGrath stated that the funding of excess costs is only set for the next school year (through June 2011) and the IDOE was developing a task force to prepare for any possible changes. She asked the Council to provide membership to participate in the High Need Taskforce.

J. Hammond asked if it was the IDOE's responsibility to reduce out-of-state placements and to ensure the provision of Free Appropriate Public Education (FAPE). S. Reimlinger replied that the IDOE has little input into the decisions of the CCC.

K. Farrell asked for clarification as to the purpose of the taskforce. D. McGrath responded that the purpose of the taskforce was to address the resource needs of students that have extreme service needs. She said the purpose of the taskforce was to investigate system-wide solutions for what can provide for children with disabilities in need of costly services.

K. Tesmer asked D. McGrath what leverage the IDOE had for making other agencies participate and provide services in a system-wide model and if there would be legislation required to establish it. D. McGrath responded that those questions are what she wants the task force to address.

ACTION

B. Lewis made a motion for the Council to participate in the taskforce. Seconded by J. Huffman. Motion carried unanimously.

B. Lewis asked if the taskforce membership will be exclusively members of the Council. D. McGrath responded that there will be regional representatives from the Indiana Council of Administrators of Special Education (ICASE).

L. Kovacs and D. Geeslin volunteered for the taskforce. D. Downer suggested DCS and DARS participate in the taskforce. Mr. Geeslin recommended a representative from mental health and addictions participate. K. Tesmer recommended the Department of Corrections participate in the area of juvenile education.

R. Burden asked how long the commitment to the taskforce would be. D. McGrath responded that the effort to increase cooperation between service providers would be ongoing and she did not foresee the taskforce being concluded. R. Burden volunteered for the taskforce.

Part B Application

K. Farrell asked D. McGrath to open the discussion of Indiana's Part B Application. D. McGrath introduced Greg Cochran, Education Specialist and Anne Davis Educational Consultant for Improvement Activities.

A. Davis stated that under the Indiana Resource Centers for Improvement Activities (INRCIA) there are six resource centers that will be established, Autism, Effective Evaluations, Effective and Compliant IEPs, Effective Assessment and Instruction, Transition to Adulthood and Positive Behavioral Interventions and Supports (PBIS).

J. Huffman asked how the content areas for the resource centers were selected. D. McGrath responded that the IDOE collected data through a needs assessment survey from special education directors and superintendents. The IDOE used the data collected as well as the permissible categories from the Part B application to identify the needs for the resource centers.

B. Lewis asked what the response rate was for the needs assessment survey. D. McGrath responded that around 130 school districts responded to the survey, and the window for response to the survey was short because of the timeline for the implementation of the project.

B. Lewis asked what the length of the contract was for the resource centers to provide services. A. Davis responded that the centers would not have to reapply for four and one-half years but the contracts would need to be reestablished annually.

B. Lewis asked if the IDOE would still be able to address other critical needs that might arise with the resource centers. D. McGrath responded that there were funds left in the budget that could be used to reshape or establish other resource centers as needed.

J. Swiss asked how the entities were selected to develop the resource centers during the competitive bidding process. D. McGrath responded that the process was open to any group to submit a bid and universities were the most common respondent. It was an objective Request for Proposal (RFP) competition involving outside expert reviewers. She also stated that it was a requirement of the resource centers to network and share resources.

K. Tesmer asked how much time the respondents had to apply to become a resource center. D. McGrath responded that it was about 60 days. She said the entities that responded were scored in December, 2009 and selected in January, 2010.

K. Farrell suggested it would be advisable to have the resource centers report on activities and services. D. McGrath agreed the INRCIA centers could report to the Council.

B. Lewis asked if the public feels there are gaps in the resource centers and the schools feel they do not have adequate support, could the State address the need moving forward. D. McGrath responded that the IDOE will be reconsidering the grants annually and if a center is not meeting its expectations then another could be established.

B. Kirk asked for clarification as to how many entities would be receiving funding as part of the centers. D. McGrath responded that there will be one receiving fiscal agent for each center and centers that access multiple entities would use cross agency contracts or agreements for the provision of services.

D. McGrath stated that the IDOE will be taking a more direct role with the resource centers and work with schools to provide interventions based on the analysis of the problem, based on the school data and indicators.

K. Farrell asked how compliant districts would benefit from the resource centers. D. McGrath responded that the resource centers will provide technical assistance to help LEAs, regardless of compliance. A. Davis added that the support for LEAs would be tiered based on local agency needs.

G. Cochran stated that Indiana's Part B application is required every year for the allocation of Part B funds. He said the application is due on May 10, 2010. He also said the application must be posted publically for 60 days and open for a 30-day comment period.

G. Cochran referred the Council to the handout draft. He stated the draft would be posted publically to the internet that day.

G. Cochran said the majority of the document is made of the assurances that Indiana will follow and implement the regulatory requirements of IDEA 2004. He stated that in the application Indiana affirms that its rules meet all federal assurances that are requested.

G. Cochran referred the Council to section 1 of the application, stating that Indiana's application for FFY 2009 (SY 09-10) was conditionally approved because Article 7 did not include the requirements for the revocation of consent. He said the section was added in early 2010.

G. Cochran referred the Council to section 3 of the application, stating that the estimated award for Indiana is 256 million dollars. He stated that the state would be applying to set aside 4.9 million dollars for administration on the SEA level.

K. Farrell asked if the administrative set-aside was for the INRCIA grants. D. McGrath responded that the SEA could set aside funds for discretionary costs, improvement activities and high cost funds.

B. Lewis asked if APC dollars for disabled student was derived from the Part B funds. D. McGrath responded that the APC were state dollars. B. Lewis asked in response if the cooperative funds came from the Part B funds. D. McGrath explained that the funding for the cooperatives were dispersed to the LEA or the cooperative depending on local contracts. She also said any additional funds not used in the SEA set-aside are dispersed evenly to the LEAs.

D. McGrath stated that the Part B application is only a projection of the budget.

J. Huffman asked how the allotments compared to what the State has submitted in the past. D. McGrath responded that under the previous document, the majority of dollars were assigned to the first row, professional development. She said the application this year was more comprehensively planned than in previous years, taking into account intended expenses for INRCIA and technological priorities.

B. Lewis asked how long the funding would run from the May 10, 2010 application. D. McGrath responded that the allotment is for 27 months beginning July 1 of 2010 and ending September 2012.

B. Kirby asked if there was a particular section of the application that included the funding for the INRCIA grants. A. Davis referred to the handout in response.

K. Farrell noted there were no dollars allocated for PBIS, despite the resource center that would work on PBIS. A. Davis responded that PBIS was to be funded through a different federal grant, the State Personnel Development Grant (SPDG).

G. Cochran referred the Council to section four of the application, where the State must account for areas in which state law outreaches IDEA 2004. G. Cochran said Indiana's explanation of FAPE and excess costs were two examples of areas where Indiana law surpasses IDEA 2004.

G. Cochran stated that public comment will be accepted through April 12, 2010. D. McGrath added that the next Council meeting would be held before the submission of the application. K. Farrell added the discussion of the application and public commentary to the agenda for the May 7, 2010 Council meeting.

FFY 2008 (SY 08-09) Report on Progress and Slippage / Targets of the 20 Federal Indicators

Rescheduled to the May 7, 2010 meeting of the Council due to time restrictions.

FFY 2008 (SY 08-09) Report on the Correction of Noncompliance

Rescheduled to the May 7, 2010 meeting of the Council due to time restrictions.

SPP Proposed Revisions

Rescheduled to the May 7, 2010 meeting of the Council due to time restrictions.

Maintenance of Effort

K. Farrell asked Dr McGrath to open the discussion on Maintenance of Effort (MOE).

D. McGrath shared her presentation from the spring meeting of the Indiana Council of Administrators of Special Education, which explained the sources of LEA funding. D. McGrath stated that LEAs had to maintain the dollar amount put into special education from state and local dollars from year to year, known as the maintenance of effort.

D. McGrath stated that because of the implementation of the American Recovery and Reinvestment Act of 2009 (ARRA) funds, LEAs could reduce their MOE by half the increase. She said eventually the ARRA funds will expire, but the MOE can stay at the new level.

K. Farrell asked what LEAs should be doing to prepare for the funding cliff. D. McGrath responded that that counterbalance to the funding cliff was FAPE, that all children must have an appropriate public education as decided in the CCC.

R. Burden said there is the standard of a FAPE, but there is not an exact science of FAPE. He stated that there should be more conversation surrounding what constitutes FAPE.

D. Downer stated that she was concerned with the lack of information about MOE in the hands of school board members. She said sometimes when the school boards adjust funding they do not take special education ramifications like MOE into account and the LEAs need to be made aware of the funding cliff and how it will affect populations.

Monitoring and Audits:

Rescheduled to the May 7, 2010 meeting of the Council due to time restrictions.

Business/Minutes:

D. McGrath provided clarification regarding Indiana's State IEP system, ISTART7. She said ISTART7 will continue to be provided free of charge and will remain compliant to federal standards. She also stated that the IDOE will be incorporating the program into the IDOE's Learning Connection and the program might be aesthetically different but functionally the same.

L. Kovacs asked how widely the program was used statewide. D. McGrath responded that around 90% of the State uses ISTART7.

K. Tesmer stated that in her school district they are facing issues with ISTART7. She said the technology is unreliable and is frustrating parents and it is time consuming for all parties when the system fails. D. McGrath responded that the technical issues are one of the reasons why the state is putting together a request for proposal for the development of the next version of ISTART7.

D. McGrath stated that the modified assessment, the Indiana Modified Achievement Standards Test (IMAST) is now available. She said the assessment tests grade level content but the test is less complex.

J. Huffman said many parents did not know about IMAST and were angry they were not informed by districts that the IMAST could be used. D. McGrath responded that the IDOE informed LEAs at the fall ICASE conference that the IMAST could be available in the spring. She referred to the slides from the ICASE conference which included suggested language for the IEPs of students that were potential candidates for IMAST. D. McGrath said she was thankful some districts chose to be prepared.

D. Downer suggested when data is available for how Indiana students performed on the IMAST; it should be put on the agenda.

K. Farrell noted there were two sets of minutes up for approval, the first being for the meeting on August 14, 2009.

ACTION

B. Lewis made a motion to approve the August 14, 2009 with the additional reservation that the minutes would never be made 100% accurate due to the departure of the Council's scribe. J. Huffman seconded, motion carried unanimously.

ACTION

J. Swiss moved to approve the minutes of November 6, 2009. R. Burden seconded. D. Geeslin found two scrivener's errors in the November 6, 2009. Motion carried unanimously under the premise of the correction of D. Geeslin's observed errors.

K. Farrell asked where the Council meeting would be held on May 7, 2010. D. McGrath responded that the meeting would be held in the current location.

ACTION

K. Farrell moved to adjourn the meeting, C. Endres seconded. Motion carried unanimously.