

COMMISSIONER'S ADVISORY PANEL FOR SPECIAL EDUCATION SERVICES - BYLAWS

The Commissioner's Advisory Panel for Special Education Services ("CAP" or "Panel") was established pursuant to P.L. 94-142 (Education of the Handicapped Act) and reauthorized through P.L. 108-446 Individuals with Disabilities Education Act (IDEA).

Please note: These Bylaws have been amended to reflect changes in federal and State law and regulations.

Revised March 2023

I. Panel Duties

The duties of the CAP, which functions in an advisory capacity to the New York State Education Department (NYSED), Office of Special Education (OSE) for the purpose of providing policy guidance with respect to special education and related services, are prescribed by section 4403 (6) of the New York State Education Law, section 612 of the IDEA, and Code of Federal Regulations sections 300.167 – 300.169 and include:

- A. To advise the Governor, Legislature, and the Commissioner of Education ("Commissioner") of unmet needs within the State in the education of children with disabilities.
- B. To comment publicly on any rules or regulations proposed for issuance by the Commissioner regarding the education of children with disabilities.
- C. To comment publicly on the procedures for distribution of funds under Article 89 of the State Education Law.
- D. To advise NYSED in developing procedures for evaluations of the special education system and reporting on data to the Secretary of Education under section 618 of the IDEA.
- E. To advise NYSED in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the IDEA.
- F. To advise NYSED in developing and implementing policies relating to the coordination of services for children with disabilities.
- G. To advise NYSED on the education of eligible students with disabilities who have been convicted as adults and incarcerated in adult prisons.

II. General Membership

A. Voting Members

Members are appointed by the Commissioner and are composed of individuals involved in or concerned with the education of children with disabilities, including:

1. Individuals with disabilities*;
2. Parents or persons in parental relation of children or individuals with disabilities (from birth to age 26)*;

3. Teachers of children with disabilities;
4. State and local educational officials, including officials who carry out activities under subtitle 3 of Title VII of the McKinney-Vento Homeless Assistance Act;
5. Representatives of institutions of higher education that prepare special education and related services personnel;
6. Administrators of programs for children with disabilities;
7. Representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
8. Representatives of private schools and public charter schools;
9. At least one representative of a vocational, community or business organization concerned with the provision of transition services to children with disabilities;
10. Representatives of State juvenile and adult corrections agencies; and
11. A representative of the Office of Children and Family Services with responsibility for foster care

* A majority of the members of CAP shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).

Members are appointed based on the category that they represent. While the members are chosen on the basis of such categories and speak as members of the groups they represent, they participate as individuals whose sole interest is in the betterment of children and youth with disabilities.

All members of CAP shall be appointed to a three-year term to run from July 1 to June 30. Each member shall serve no more than two consecutive (three year) terms of service, except that a representative from a New York State agency shall continue to serve at the pleasure of their appointing agency. A member designated as Chairperson may continue to serve at the discretion of the Commissioner beyond the maximum term limit. Members serving on CAP as of March 3, 2023, and who have already served on CAP for two or more terms, will be deemed to have met the maximum term limit upon the expiration of their current term.

After the first term of service, each eligible member may remain for a second term if they are in good standing based on a review of their attendance, participation, and professional contributions to CAP. After a three-year (one term) break in service, former members who continue to meet membership requirements may reapply for CAP membership. In cases where a member reaches the end of a term and a replacement member has not been selected for that constituency, an existing member may continue into the next term until the new member is chosen as determined by NYSED.

Any member whose status or affiliation changes such that they no longer meet the requirements to represent their constituency shall automatically end their term effective June 30 of that same year, vacating the position. If such individual is also appointed under a secondary constituency, the individual may continue to serve the remainder of their term

under that category as their primary constituency if it is determined necessary to maintain the required membership.

In the event a member resigns from CAP prior to the end of their appointed three-year term, a new member shall be appointed as soon as possible to fill the vacancy. Such new member will be appointed for a three-year term to run from the date of their appointment until June 30 of the year said term would expire.

B. Nonvoting Members

Ad Hoc Members who represent other offices within NYSED and the Department of Health may be appointed as nonvoting members.

III. Responsibilities of the Members

- A. The responsibilities of CAP members shall include:
1. Serving without compensation (however, reasonable and necessary expenses for attending meetings and performing duties will be reimbursed).
 2. Attending all scheduled CAP meetings and remaining at the meetings for both days in order to represent their constituency.
 3. Serving on at least one subcommittee of CAP, as established by the Executive Committee in alignment with NYSED's priority areas. "Serving" includes attending meetings and actively contributing to subcommittee recommendations to the full Panel. Members may also voluntarily serve on the Business subcommittee described in Section V.
 4. Informing the NYSED designee(s) and CAP Secretary prior to the meeting date if the CAP member is not going to attend all or part of a meeting and cancelling any travel/hotel reservations consistent with applicable cancellation policies.
 5. Notifying the NYSED designee(s) within 30 days of any change that may impact membership status, including but not limited to, changes in contact information, employment, constituency represented, child exceeds the age of 26, and resignation from CAP. Resignations from CAP must be provided in writing and identify the effective date of such resignation.
 6. Conforming to the general requirements of CAP, including but not limited to procedures for travel, reimbursement, and meeting participation.
- B. When a member fails to attend two full consecutive meetings and/or, in a given year, two partial meetings without good cause and/or adequate notice, the Business/Membership Subcommittee shall contact the member to inquire about the reasons for the absences and the member's interest and ability in continuing to serve on CAP. Based on input from the Business/Membership Subcommittee, the Executive Committee shall determine whether a recommendation should be made to NYSED to end the member's term or if the member will serve out the remainder of their term, if applicable. When a member misses three consecutive meetings, the Executive Committee shall automatically inform the NYSED designee(s) and recommend that NYSED

appoint another individual to replace the member. If CAP members from a State agency miss three consecutive meetings, the Executive Committee shall request that NYSED contact the agency to determine if a new representative should be designated by the agency to serve on CAP.

- C. Attendance and involvement in local and area meetings and conferences on individuals with disabilities in their home geographical area are encouraged. However, the only designated official spokesperson for CAP shall be the Chairperson. The Chairperson, after consultation with the Vice-Chairperson, may delegate a CAP member to attend the meetings in an emergency.
- D. Voting members of the Panel not in attendance at a meeting shall abstain from voting on the minutes for that meeting.

IV. Officers and Their Duties

- A. The officers (Executive Committee) of CAP shall consist of a Chairperson, Vice-Chairperson, and Secretary.
- B. One member of CAP shall be designated as Chairperson by the Commissioner for a two-year term.
- C. The Vice-Chairperson and Secretary are elected by the Panel at the first CAP meeting of the year for a one-year term.
- D. The Chairperson shall be the presiding officer and shall preside over all regular, special, executive and public meetings of CAP; and shall:
 - 1. serve as the official spokesperson for CAP;
 - 2. in collaboration with NYSED staff, develop meeting agendas and establish meeting dates for the entire year and have this information available to all Panel members prior to that year;
 - 3. communicate information relating to CAP to the Panel members via the CAP listserv; and
 - 4. convene additional meetings as necessary.
- E. The Vice-Chairperson shall perform the duties of the Chairperson if they are absent and shall be responsible for overseeing the coordination with the CAP Executive Committee.
- F. The Secretary shall be responsible for recording the minutes at all CAP meetings and providing NYSED a copy for review within two weeks of each CAP meeting.
- G. The Executive Committee shall establish procedures for the orderly and effective running of CAP meetings including maintaining appropriate response or discussions between CAP and nonmember attendees, as appropriate.
- H. The Executive Committee shall submit an annual report of CAP activities and recommendations to NYSED by December 1 of the following year, after approval by the Panel members. The report shall be posted on the NYSED CAP website.

V. NYSED Staff

- A. OSE leadership shall designate NYSED staff to coordinate CAP. The NYSED designee(s) shall be responsible for performing duties as are appropriate to the

responsibilities of CAP in collaboration with the Chairperson, including but not limited to the following:

1. Assist CAP in meeting its responsibilities under Section 612 of the IDEA.
 2. Maintain the minutes of CAP meetings, the records of CAP and assist the Chairperson in preparation of meeting agendas, materials and distribution of publications of interest to CAP members, arrange for all meetings, facilities, and payments to the members for expenses in relation to attendance at CAP meetings, etc.
 3. Assist in the preparation of information and updates for CAP and transmit these via the CAP listserv.
 4. Provide information to members on issues impacting children with disabilities.
 5. Maintain the CAP website and listserv.
- B. NYSED shall transmit findings and decisions of impartial hearings and subsequent decisions regarding appeals of impartial hearings to CAP as the State Advisory Panel.

VI. Subcommittees

- A. Subcommittees and ad hoc committees shall be established for specific purposes in collaboration with NYSED and the approval of CAP.
- B. Subcommittees shall be composed of CAP members and shall operate according to CAP Subcommittee procedures
- C. The Business/Membership Subcommittee shall be composed of CAP members who serve on a voluntary basis in addition to their one mandatory subcommittee as described above. The Business/Membership Subcommittee shall:
 1. review member vacancies, recruit members and make recommendations to fill vacancies;
 2. monitor attendance, make recommendations to achieve better Panel meeting attendance and make recommendations to replace members who do not regularly attend meetings;
 3. make recommendations to the NYSED designee(s) on new member appointments and review the attendance, participation and professional contribution to CAP of members who have completed their first term to determine whether such member should continue for a second consecutive three-year term;
 4. revise/update the Bylaws based upon input from CAP; and
 5. review best practices from other State Advisory Panels and make recommendations to the full Panel to make the CAP meeting process more engaging and productive.

VII. Meetings

- A. CAP shall meet at least three times each year.
- B. Additional meetings, as needed, may be convened by the Chairperson, the NYSED designee(s) and/or by a petition of five members of CAP.

- C. All meetings (time and place) and agenda items are to be publicly announced by the NYSED designee(s) prior to the meeting, and meetings will be open to the public.
- D. A written notice of regular meetings shall be mailed or emailed to each member by the NYSED designee(s) at least 15 days prior to each regular meeting, and at least 12 days prior to any additional meeting. Such notices shall state the time, place, and purpose for which the meeting is called.
- E. CAP members should submit items to be considered for the agenda of the next scheduled meeting to the CAP Chairperson not later than 15 days before that meeting. The NYSED designee(s) will send the agenda with all available and relevant data to all CAP members.
- F. Meetings of CAP shall be open and accessible to the public.
 - 1. NYSED designee(s) shall provide public notice on the NYSED CAP website of the time and place of each meeting prior to the meeting.
 - 2. A single public comment period is always included on the agenda. The public comment period is limited to 30 minutes, with an individual comment limit of five minutes.
 - 3. Whenever possible, members will be notified one week in advance of the meeting of registered speakers and the intended topics.
- G. No CAP member may be represented at a CAP meeting by a substitute.
- H. Confidential matters, the disclosure or public discussion of which would, in the opinion of a majority of the members present, be detrimental to the effective discharge of CAP's responsibilities, may be discussed in executive session.
- I. A log of visitors shall be maintained by the NYSED's designee(s)
- J. Official minutes will be kept on all CAP meetings and are available to the public on request and on the CAP website after review and approval by CAP.

VIII. Rules of Order

- A. All meetings will be conducted according to general rules of order except as prescribed above. The Chairperson may invoke Robert's Rules of Order as necessary to the conduct of meetings.
- B. A quorum of the Panel is 51 percent of its appointed membership. When the quorum falls below 50 percent, a two-thirds majority vote of the members present is required to pass a motion. At any other time, a simple majority is sufficient to pass a motion. If a vote is required outside a regular meeting, a two-thirds majority of the members who voted is required to pass a motion. Proxy voting is not permitted.

IX. Amendments to Bylaws

Amendments to these Bylaws may be made by a majority vote at a regularly scheduled CAP meeting. A copy of the proposed amendments shall be disseminated for review to the Panel members at least 30 days prior to the meeting at which the vote will occur.