

**New York State's  
Commissioner's Advisory Panel for Special Education Services  
May 13-14, 2021 Meeting Minutes**

New York State's (NYS) Commissioner's Advisory Panel (CAP) for Special Education Services held its scheduled spring meeting May 13-14, 2021 via Zoom.

**MEETING OF THE COMMISSIONER'S ADVISORY PANEL, May 13th at 9:00 a.m.**

**Members Who Participated:**

Natasha Bermudez, Kimberly Black, Naomi Brickel, Tim Bromirski, Kathy Ralabate Doody, Kristen Dudek, Brett Eisenberg, Edward Escobar, Jacqueline Frey, Alexis Harrington, Laretta Joseph, Chris Kus, Barbara Martorana, Namita Modasra, Eileen Murtha, James Nolan, Lori Podvesker, Brian Pulvino, Yvonne Sinisgalli, Kristie Stromecki, Annmarie Urso, Mara Vanderzell, Danielle Williams, Mary-Margaret Zehr

**MEETING OF THE COMMISSIONER'S ADVISORY PANEL, May 14th at 9:00 a.m.**

**Members Who Participated:**

Lynnette Aqueron, Suryati Barnes, Natasha Bermudez, Kimberly Black, Naomi Brickel, Tim Bromirski, Kristen Dudek, Edward Escobar, Jacqueline Frey, MaryJo Ginese, Alexis Harrington, Laretta Joseph, Chris Kus, Barbara Martorana, Namita Modasra, Eileen Murtha, James Nolan, Lori Podvesker, Brian Pulvino, Yvonne Sinisgalli, Kristie Stromecki, Annmarie Urso, Mara Vanderzell, Danielle Williams, Mary-Margaret Zehr

The following New York State Education Department (NYSED) staff also participated in the meetings: Assistant Commissioner, Office of Special Education (OSE), Christopher Suriano; OSE Director of Special Education Services, Joanne LaCrosse; OSE Supervisor - Policy Unit, Alison Conners; OSE Associates/CAP Designees: Sandra Cote, Jennifer Hedderman; OSE Associate: Kelly Onorato; Assistant Data Director, Information and Reporting Services (IRS)/NYSED Coordinator of Federal Reporting, Kristin DeSalvatore

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**General Business**

CAP Chairperson Edward Escobar called the meeting to order at 9:00 a.m. This was followed by a review of Zoom participation tips by Jennifer Hedderman.

Chairperson Escobar also performed roll call. For attendance purposes, members were asked to enter their name and constituency in the chat box. Members of the public were also asked to identify themselves by including their name and affiliation in the chat box.

Alison Conners introduced NYSED staff participating in the meeting and reviewed the two-day meeting agenda.

**ACTION ITEMS**

**February 11-12, 2021 CAP Meeting Minutes**

CAP Secretary Danielle Williams provided a high-level summary of the February 2021 CAP Minutes that were sent to members prior to the meeting for review. Members were given the opportunity to provide comments/corrections to the minutes. Chairperson Escobar asked members for a motion to accept the minutes. A vote was taken by Zoom poll.

**MOVED**, that the February 11-12 meeting minutes be approved.

Motion by: Annemarie Urso  
Seconded by: Mary-Margaret Zehr  
Action: Motion carried unanimously.

## **DISCUSSION ITEMS**

### **Executive Committee Report**

The CAP Executive Committee reported out on activities related to CAP since the February 2021 meeting. Chairperson Escobar discussed the value of the subcommittees and commended members for the subcommittee work that is happening behind the scenes. Vice-Chairperson Yvonne Sinisgalli also thanked the subcommittees for the work they are doing, and, per the new subcommittee procedures, providing her copies of the subcommittee meeting minutes. Chairperson Escobar reported that the Executive Committee met with NYSED staff approximately every two weeks to plan the May 2021 CAP meeting. Chairperson Escobar also informed members that he participated in the National State Advisory Panel (SAP)/State Interagency Coordinating Council (SICC) webinar on “Best Practices of SAPs and SICC’s” and that CAP is on target for certain areas and still needs work in other areas.

Secretary Williams reported that the Executive Committee’s goal this year was to create systems in CAP, including reviewing what other States are doing in order to run meetings more efficiently and provide members a voice. She also reported that the Executive Committee continues to discuss their role.

### **Special Education Disability Classification “Emotional Disturbance”**

Joanne LaCrosse presented on the Special Education Disability Classification “Emotional Disturbance.” At their at their [January 2, 2020 meeting](#), the NYS Board of Regents began initial discussions as to whether the Board should consider replacing the term “emotional disturbance” in NYS Regulations. It was recommended that stakeholder input be sought on this recommendation, including suggestions for replacement terms. Due to COVID-19, stakeholder input was postponed at that time. Ms. LaCrosse informed members that the Board is very interested in getting CAP’s thoughts on this issue and obtaining the Panel’s recommendations on what term should be used. OSE also recently discussed whether there should be a change in terminology with the Youth Advisory Panel. Students felt that the current term “emotional disturbance” has a negative connotation and strongly supported a change to a different term, such as “emotional or behavioral disability” or “emotional impairment.”

Any change to the term “emotional disturbance” would require an amendment to NYS Regulations. NYS Regulations define “student with a disability” to include the same 13 disability terms as federal regulations, including “emotional disturbance.” While a specific disability category is necessary to determine special education eligibility, decisions regarding the provision of services are based on a student’s individual needs, not on the student’s disability category. Ms. LaCrosse reviewed data provides in the U.S. Department of Education (USDE), Office of Special Education Programs (OSEP) [Fast Facts: Children with Emotional Disturbance](#) issued in May 2020. For the 2018–19 school year, 5.45% of student with disabilities were identified with emotional disturbance. States ranged from 1.65% to 17.36%. NYS’s data was 4.93%. OSE’s research of other states identified that the following terms are used to designate the federal definition’s “emotional disturbance” disability category, including “emotional disturbance” or “serious emotional disturbance;” “emotional disability” or “serious emotional disability;” “emotional/behavioral disability or disorder;” “emotional impairment” and “behavior disorder.” States are not required to use the federal classification “emotional disturbance.” However, if NYS changes its terminology, NYSED would still be required to report data to USDE under the disability category “emotional disturbance.”

Members were polled on the following questions:

**Question 1: Do you think the term “Emotional disturbance” has any negative meaning?**

Yes - 100%

No – 0%

**Question 2: Should the State Education Department (SED) consider using a different term for this disability classification?**

Yes - 100%

No – 0%

**Question 3: Terms used by other states include: “Emotional Disability”, “Emotional/Behavioral Disability or Disorder”, “Serious Emotional Disturbance”, “Serious Emotional Disability or Disorder”, and “Emotional Impairment.” What term do you think SED should be using?**

- A. Emotional Disability/Disorder - 24%
- B. Serious Emotional Disability/Disorder – 0%
- C. Emotional/Behavioral Disability - 36%
- D. Emotional Impairment - 12%
- E. Emotional Disturbance (no change recommended) – 0%
- F. Other (enter suggestion in the chat box) - 28%
  - Chat box suggestions:
    - Social/Emotional Impairment
    - Mental Health Disability
    - Emotional/Behavioral Challenges
    - Social/Emotional Disorder/Disability
    - Emotional Disability

**State Performance Plan (SPP)/Annual Performance Report (APR) Target Setting/Stakeholder Engagement [CAP By-laws Responsibilities A.4.]**

Kristen Desalvatore and Kelly Onorato presented on preliminary discussions regarding NYS’s Federal Fiscal Year (FFY) 2020-2025 SPP/APR target setting and stakeholder engagement. A PowerPoint was provided to members prior to the meeting to review. Members were provided information on the background of the SPP and APR, requirements for setting targets for the FFY 2020-2025 SPP/APR package, information on performance indicator trend data and changes for the FFY 2020-2025 SPP/APR package, OSEs proposed stakeholder process, improvement strategies for performance indicators, and CAP member participation in stakeholder engagement.

To obtain member input on the target setting/stakeholder engagement process, CAP members were assigned to virtual breakout rooms and asked to provide input on the following guiding questions and report out to the larger group:

**1. What suggestions do you have for ensuring diverse groups of parents are involved in the stakeholder engagement process? How can CAP members help OSE reach diverse groups of parents?**

**Member responses on ways to ensure diverse groups of parents are involved in the stakeholder engagement process:**

- Many districts have Diversity and Equity Officers on staff - Use these individuals to disseminate information.
- Collaborate with Partnerships to reach out to all districts. Districts and schools trust the Partnerships more than they trust NYSED.
- Use family support networks and parent to parent groups. These groups are family and peer driven.
- Use listservs of networks and OSE’s Family and Community Engagement (FACE) Centers.
- Consider multiple ways to engage parents – e.g., different times of the day. Be creative.
- Use virtual meetings, which provide a unique opportunity (more accessible) to reach parents.
- Use board of cooperative educational services (BOCES) networks to obtain information about stakeholder meetings to component districts that could get the information to parents.

- Use FACE Centers that are directly working with districts.

**Member responses on ways that CAP members can help OSE reach diverse groups of parents:**

- Use contacts, listservs, and social media of CAP members who are affiliated with organizations.
- Use school districts' social media. This is very effective. Provide districts with videos to post or links they can share on their websites and social media.
- Contact students with disabilities Parent Teacher Associations (PTA).
- Leverage social media of other state agencies such as the Office of Mental Health, Office for People With Developmental Disabilities, etc.

**2. In addition to an on-line survey and virtual stakeholder meetings, do you have any other suggestions for how OSE could obtain stakeholder input on proposed targets and identifying improvement activities?**

**Member responses:**

- Reach out to State associations or State chapters of national associations. Many CAP members are involved in other initiatives that could be leveraged to obtain stakeholder input. Also, consider modes of contact other than email.
- Work with BOCES district superintendents.
- Utilize the big five districts that have parent leaders who can help disseminate information.
- Use Community boards, Advocacy organizations and PTAs.
- Leverage FACE Centers.
- Online surveys are better than print from a parent perspective - Consider format and communication to parents about a survey. Partner with districts who can encourage participation and provide support.
- Use Charter School Centers.
- Use special education parent social media platforms.

**3. For indicators 8 and 14, in addition to race and ethnicity, what other demographic should OSE consider for reporting the extent to which survey respondents are representative?**

- **age of student;**
- **disability category;**
- **gender;**
- **geographic location;**
- **another category?**

**Member responses:**

- Recommend looking at socioeconomic status.
- Disability category is especially important for both indicators.
- Given the conversation about “emotional disturbance,” agree with recommendation to use disability category. Disability category can impact a parent’s experience – can be very different based on disability category.
- It is important to track data for post-school outcomes based on disability.
- Age is another important demographic.
- Can the State use more than one additional demographic? Recommend using age, socioeconomic status, and disability category.

**Public Comment**

Stephanie Fisher Kindestin, a Special Education and Reading Interventionist from the New York City (NYC) Department of Education, provided comment on dyslexia screening and remediation policy in NYS. Ms. Kindestin regularly sees indicators of dyslexia in students but does not have the tools to remediate this. She also informed CAP that there is a high rate of dyslexia among persons who are in

prison. Ms. Kindestin stated that school psychologists do not have access to assessments for dyslexia. She believes NYS is well behind other states on policy for dyslexia and recommended something be done to address this.

Rue Zalia Watkins, from the Mental Health Association of NYC provided comment on the disability category “emotional disturbance.” She would like to see this label changed. Ms. Watkins reported that as NYS works on changing this label, she hopes that the focus is put on the best way to educate these children. Ms. Watkins stated that NYS not only needs to change the label, but these children also need access to the same high-quality education as children without disabilities.

### **Subcommittee Reports**

Vice-Chairperson Sinisgalli thanked members for the rich discussions of the subcommittees outside the regular CAP meetings. Chairperson Escobar informed the members that the By-laws are in the process of being reviewed by the Business Subcommittee. Ms. Conners reminded members that the subcommittees were formed based on unmet needs in the State for children with disabilities and the importance of subcommittees/members in keeping NYSED aware of what is happening in the field.

### **Standing Subcommittees:**

1. **Student Performance Outcomes:** The subcommittee met approximately three times since the last CAP meeting. The subcommittee is working towards establishing its goals. Discussions so far have focused on getting a better picture of what happens after students with disabilities exit school. The subcommittee is interested in getting more data from NYSED’s Adult Career and Continuing Education Services-Vocational Rehabilitation and learning how services are provided to students who are still in high school.
2. **Teacher/Provider Certification/Recruitment and Retention:** The subcommittee had the following recommendations and information to share with CAP:
  - Identification of teacher shortages
    - Use data already available from Collaboration for Effective Educator Development, Accountability, and Reform; State Educational Agency; Local Educational Agencies; and Institutes of Higher Education (IHE) data and data from the New York State Association for School Personnel.
  - Identification of barriers to teacher recruitment/retention
    - Partner with New York State United Teachers union (NYSUT) to use their capacity to poll NYSUT members to identify barriers to recruitment/retention.
    - Also discussed P-12 partnerships with IHEs as a way to address shortages and maximize both in-service and pre-service teacher development.
  - Identify barriers to certification
    - Additional credentials needed for teachers in grades 7-12 to be highly qualified in content area subjects.
    - Additional costs are associated with certifications/exams.
    - Shortage of applicants –need incentives to pursue areas of shortages – e.g., Intensive training programs with funding opportunities.
    - Long process time for IHEs to get new program approvals.
    - Lengthy wait for certification results (16-weeks).
    - Juvenile justice population compounds existing issues.

Note: These are not an inclusive list of all shortage and certification issues, just the ones discussed to date.

Chairperson Escobar called for motions for the following four action items put forward by the subcommittee:

**MOVED**, that CAP make a recommendation for NYSED to partner with NYSUT to issue a survey to gather information on special education teacher shortages.

Motion by: Barbara Martorana

Seconded by: Lori Podvesker

Action: Motion carried unanimously.

**MOVED**, that CAP present to NYSED a white paper on teacher shortages for publication.

Motion by: Barbara Martorana

Seconded by: Kriste Stromecki

Action: Motion carried (one member voted no).

**MOVED**, that CAP recommend that NYSED consider a process for IHEs to award additional individual pathway certification.

Motion by: Barbara Martorana

Seconded by: Kristie Stromecki

Action: Motion carried unanimously.

**MOVED**, that CAP recommend that NYSED expand the offerings that provide the 30 credit courses in a concentrated area to represent “enough credit for graduate study.”

Motion by: Barbara Martorana

Seconded by: Kristie Stromecki

Action: Motion carried (one member abstained).

**3. Legislative/Regulatory/Policy Subcommittee:** The subcommittee reviewed legislation to remove the restriction for who a Licensed Behavior Analyst can serve. The bill was recently revised and now uses more specific language about who can be serviced. The committee needs to review the revised bill to ensure the language is broad enough and is not more restrictive than the initial bill. Prior to putting forward a recommendation forward to CAP for a vote, the subcommittee will review the revised bill language to determine if they continue to support the proposed legislation.

**4. Least Restrictive Environment (LRE)/Inclusion Subcommittee:** The subcommittee recognizes that this issue touches on all areas of CAP and cannot operate in a bubble. Focus this year has been on the identified priority - reviewing and analyzing data to maximum participation and focus on best practices. Looked at challenges and hinderances to this. Main area of focus has been on understanding of LRE. Misunderstanding of LRE (What it is and what it isn't") has led to NYS not doing well on this indicator area and not meeting the needs of students. Broke this down into three areas that would help support understanding of LRE: 1.) Look at what the challenges are; 2.) Look at best practices already exist; and 3.) Consider what training that might need to be provided. Discussed conducting surveys and seeing what other best practices exist, including what other states are doing. When looking at best practices, need to consider size of the State's population and that other states practices may not fit NYS – one size does not fit all. Next year, the subcommittee will continue to look at identifying best practices within NYS - What recommendations can be made to CAP and NYSED and will lead to development of trainings or suggestions for trainings. End goal is how to improve NYS's results on the indicators in the SPP/APR related to LRE.

Recommendation – The blueprints that NYSED has developed for other areas have been beneficial. The subcommittee believes that having a blueprint for LRE would be very useful and for continuing the conversation regarding best practices and trainings. This will also be beneficial for impacting the LRE indicators, especially at preschool level, as LRE impacts a child's entire education. It is important to have a greater understanding amongst all stakeholder of what LRE is and what it is not.

**MOVED**, that CAP ask NYSED to develop a blueprint specific to LRE.

Motion by: Lori Podvesker

Seconded by: Namita Modasra

**Business Subcommittee:** The subcommittee meets every month and work has included: development of a new application for CAP membership, which is now posted on the CAP website and review of the By-laws, including a discussion of Roberts Rules of Order.

### **Annual Report**

Ms. Conners informed members that the Executive Committee will be developing the CAP Annual Report and seeking member input. Subcommittees were informed that they will need to draft a summary of their work for the year and submit this to the CAP Executive Committee to include in the report. NYSED will provide the template to be used this year based on the format used for the 2019-20 CAP Annual Report.

### **2021-22 CAP Meetings**

Members and subcommittees were encouraged to reach out to the Executive Committee with suggested agenda topics for the 2021-22 CAP Year.

Members were polled on the following questions:

- 1. How often should CAP meet during the 2021-22 school year?**
  - 3 times per year - 41%
  - 4 times per year - 53%
  - 5 times per year - 6%
  
- 2. Should the 2021-22 virtual CAP meetings be conducted over one or two days?**
  - One day - 12%
  - Two days - 88%
  
- 3. Based on your response to Question #3, how long should the virtual CAP meetings be?**
  - 1-2 hours - 18%
  - 2-3 hours - 76%
  - 3-4 hours - 6%
  
- 4. When should the first virtual CAP meeting be held?**
  - September 2021 - 29%
  - October 2021 - 59%
  - November 2021 - 12%
  
- 5. If allowed, would you be willing to travel to Albany for an in-person meeting(s) during the 2021-22 school year?**
  - Yes - 100%
  - No – 0%

### **Closing**

Chairperson Escobar adjourned the May 2021 CAP meeting.