

**New York State's Commissioner's Advisory Panel for Special Education Services
May 19-20, 2022, Meeting Minutes**

New York State's (NYS) Commissioner's Advisory Panel (CAP) for Special Education Services held its scheduled spring meeting on May 19-20, 2022, via Zoom.

MEETING OF THE COMMISSIONER'S ADVISORY PANEL May 19th at 9:00 a.m.

Members Who Participated:

Lynette Aqueron, Suryati Barnes, Natasha Bermudez, Kimberly Black, Naomi Brickel, Tim Bromirski, Olga Nelly Collazo, Harold Dean, Kathy Ralabate Doody, Kristen Dudek, Brett Eisenberg, Edward Escobar, Mary Jo Ginese, Michelle Gode, Alexis Harrington, Stacy Lyles, Barbara Martorana, Eileen Murtha, Jennifer Pankowski, Brian Pulvino, Raquel Schmidt, Alesia Simco, Yvonne Sinisgalli, Mara Vanderzell, Mindi Wapner, Danielle Williams.

MEETING OF THE COMMISSIONER'S ADVISORY PANEL. May 20th at 9:00 a.m.

Members Who Participated:

Lynette Aqueron, Suryati Barnes, Natasha Bermudez, Kimberly Black, Tim Bromirski, Olga Nelly Collazo, Kathy Ralabate Doody, Kristen Dudek, Brett Eisenberg, Edward Escobar, MaryJo Ginese, Michelle Gode, Alexis Harrington, Barbara Martorana, Eileen Murtha, Jennifer Pankowski, Brian Pulvino, Raquel Schmidt, Kristie Stromecki, Mara Vanderzell, Mindi Wapner, Danielle Williams.

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; Chief of Special Education Services, Eileen Borden; Manager of Preschool Policy, Incident Management and Nondistrict Units, Suzanne Bolling; OSE Supervisor, Special Education Policy, Alison Conners; OSE Supervisor Due Process Unit, Tracy Davidson; Associates/NYSED CAP Designees: Sandra Cote, Dawn Kalleberg, and Alana Wickware; OSE Associate, Program Development and Support Services (PDSS) Unit, Jason O'Connell.

General Business

Chairperson Edward Escobar called the meeting to order at 9:00 A.M. and introduced the Executive Committee. This was followed by a review of Zoom participation tips by Dawn Kalleberg. Members were also reminded that all public and private chats are recorded through Zoom.

CAP Members were asked to place their name and constituency in the chat box for attendance purposes. 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 and reviewed the two-day meeting agenda.

Old Business

Alison Conners informed members that the 2020-21 CAP Annual Report has been sent to the NYSED Commissioner of Education, Betty Rosa and was also posted on the [CAP website](#).

See Action Item "March 3-4, 2022, Meeting Minutes."

Executive Committee Report

Chairperson Escobar informed members that the Executive Committee and NYSED staff continue to meet every two weeks to plan for future CAP meetings and develop processes and procedures to ensure

CAP is meeting its responsibilities and providing members a voice to share their perspective on special education issues. Chairperson Escobar acknowledged the hard work that Barbara Martorana, Chairperson of the Business Subcommittee, and the Business subcommittee have done to establish a protocol for how to respond to individuals who provide public comment. The letter developed by the Business Subcommittee was sent out by the Executive Committee on behalf of the Panel to thank Emily Mondschein, from Gigi's Playhouse for her public comment at the March 3-4, 2022, CAP meeting. Members were reminded that if they are interested in having further discussion of comment provided to the Panel, they can ask the Executive Committee to include this on the next meeting agenda.

Chairperson Escobar also informed members that he will be reapplying to serve on CAP for another term, at the end of his current term in June 2022, but will be stepping down as CAP Chairperson. Chairperson Escobar expressed a willingness to assist in the transition of the new CAP Chairperson once one is appointed. Members who would like to be considered for the role of CAP Chairperson were invited to send a letter of interest to Sandra Cote specifying why they would like to be the CAP Chairperson. OSE will be conducting interviews over the summer for CAP membership for the members whose terms are ending in June 2022 and for Chairperson in preparation for the first CAP meeting of 2022-23.

Vice-Chairperson Yvonne Sinisgalli reported out on the most recent webinar which focused on General Supervision under Part B and Part C of the Individuals with Disabilities Education Act. Sandra Cote shared information with CAP members that the State Advisory Panel-State Interagency Coordinating Council's (SAP-SICC) quarterly webinars can be accessed via the [SAP-SICC website](#). Webinars from previous years are posted on the website as well.

ACTION ITEMS

March 3-4, 2022, Meeting Minutes

Secretary Williams provided a high-level summary of the March 2022 CAP minutes. 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 March 3-4, 2022, meeting minutes be approved.

Motion by: Barbara Martorana

Seconded by: Brett Eisenberg

Action: Motion carried.

DISCUSSION ITEMS

Public Comment

No public comment was provided.

Remarks from OSE Leadership

Joanne LaCrosse, Director of Special Education Services, provided a policy overview on the following topics:

Monitoring Review: NYSED OSE is currently undergoing a monitoring review by the United States Department of Education, Office of Special Education Services (OSEP). While OSEP provides cyclical differentiated monitoring and support (DMS) focused on compliance and improving results for children with disabilities to states as part of its results driven accountability system, the current monitoring visit in NYS is a special review outside of the regularly scheduled DMS cycle. The special review is being conducted, in part, as a result of the volume of due process special education complaints filed annually in New York City (NYC). The review involves providing OSEP with documentation related to NYSED's

processes and procedures for monitoring local education agencies for compliance and performance, and the correction of non-compliance. OSE has met with OSEP to provide additional information and clarification as requested. Ms. LaCrosse described the progress of the monitoring review thus far and will provide CAP with an update on OSEP's findings at a future meeting.

Due Process Proposed Regulations: Information was provided regarding proposed regulatory changes to the due process system. Members were given links to the related Board of Regents items, scheduled public hearings and call for public comment during the meeting and subsequently through the CAP Listserv. To address the volume of due process special education complaints filed annually in NYC, NYSED has [proposed the amendment of sections 200.2\(e\) and 200.5\(j\) of the Regulations of the Commissioner of Education relating to Special education due process system procedures](#) to address the rotational selection process for assignment of impartial hearing officers (IHO) to due process complaints, provide clarification of terms and promote timeliness of impartial hearing decisions, and address how IHOs must handle conflicts of interest. NYSED also [proposed amendments to sections 200.5\(j\) and 200.21\(a\) and addition of section 200.5\(o\) to the Regulations of the Commissioner of Education relating to special education due process procedures](#) to permit the immediate appointment of an IHO to conduct an accelerated review of a due process complaint, establish the process by which a parent may request an accelerated review and indicate the timelines and procedures for an IHO to issue an accelerated order of relief or finding, and establish the compensation rate for IHOs that have been appointed to accelerated due process cases.

Special Educator Certification Proposed Regulations: NYSED collects data on statewide teacher shortage areas and reports the shortage areas annually to the U.S. Department of Education. Special education is one of the persistent statewide shortage areas. To address the shortage of certified special education teachers, the Department has [proposed amendments to the Regulations of the Commissioner of Education to establish the Students with Disabilities \(All Grades\) certificate](#). This certificate will permit special education teachers to teach pre-Kindergarten through grade 12 and will give school districts the flexibility to place special education teachers in the grade levels with the highest staffing needs. CAP members were encouraged to view the [Supplemental Presentation: Proposed Students with Disabilities \(All Grades\) Certificate](#) and to provide public comment.

Office of Special Education Technical Assistance Resources

Jason O'Connell, Associate in OSE's PDSS Unit, presented to CAP on the [OSE Educational Partnership](#), a coordinated and cohesive network of support focused on enhancing services and supports for students with disabilities ages birth to 21 which provides support to educational organizations (districts, schools, approved private schools, and preschools) using an intensive team approach to build organizational capacity through technical assistance and professional development that is implemented with consistency across New York State. The OSE Educational Partnership's mission is to support and empower schools and families to improve equity, access, opportunities, and outcomes for all students with disabilities.

The OSE Educational Partnership is comprised of:

- Technical Assistance Partnerships housed at Institutes of Higher Education, which provide professional development on academics, behavior, equity, transition and data to regional teams, and develop materials for various stakeholders;
- Regional teams made up of training specialists from Regional Partnership Centers (RPC) and Early Childhood and School-Age Family and Community Engagement (FACE) Centers that provide direct training and support to families, approved preschool and school-age programs, public schools and districts, and community partners.

The [OSE Educational Partnership's public website](#) is intended to be used by the public, including parents and families of students with disabilities, young adults with disabilities and education professionals and includes contact information for the RPCs, school-age FACE and early childhood FACE Centers,

information for upcoming professional development and training offerings, and descriptions of training packages and sessions. Member were provided the link to [NYSED OSE Educational Partnership website where they can view the current training packages that are available.](#)

Update on the NYS Due Process System

Eileen Borden, Chief of Special Education Services, and Tracy Davidson, OSE Supervisor of Due Process Unit, provided an overview of due process rights afforded to students with disabilities and their parents (i.e., mediation, State complaint and due process complaint). Special education mediation can be requested by the parent or the local educational agency (LEA) and is voluntary for both parties. Of the cases that proceeded to mediation in NYS during the 2019-20 and 2020-21 school years, 83.3 percent resulted in agreement between parents and school districts. Feedback from CAP members regarding ways to promote the use of mediation was obtained via polling and discussion. Member input indicated support for educating families, parent advocates and LEAs regarding the use of mediation, training district personnel and Community Dispute Resolution Centers on the importance of mediation, providing information on mediation when a due process complaint is filed and allowing attorney's fees to be mediated. CAP members provided suggestions to increase the use of mediation, such as increasing awareness through education and the dissemination of information and the sharing of positive stories/experiences/examples that have resulted from successful mediation.

A State complaint may also be filed by a parent, individual or organization against a school district or public agency, alleging a violation of law or regulation regarding the education of children with disabilities.

A due process complaint for an impartial hearing may be filed by either a parent or a school district relating to disagreement on a special education matter. An impartial hearing is a formal process in which the parent and district present their case and evidence before an IHO who issues a written decision. CAP members were asked for suggestions on the way to most effectively decrease the number of due process complaints in NYC. Responses centered around improving communication and special education procedures, addressing the systemic root cause of the problem by educating on special education issues and improving the delivery of services were additional suggestions.

In addition to the information on due process rights, members were provided information on technical assistance support available to families of a student with a disability, the transition, over time, of the NYC Department of Education's due process impartial hearing system to the NYC Office of Administrative Trials and Hearings ("OATH"), and the Accelerated Order of Relief legislation.

Members were invited to provide comment on and/or participate in public hearings to be held in June 2022 on the proposed regulations relating to special education due process system procedures.

Subcommittee Reports

Business Committee: Barbara Martorana informed members that a "thank you" letter was developed by the Business Subcommittee to respond to individuals providing public comment. Special thanks was given to Tim Bromirski for his work on the letter. Secretary Williams indicated that a letter was sent to Ms. Mondschein following the March 2022 CAP meeting and that this will be the practice going forward.

Standing Subcommittees:

- 1. Student Performance Outcomes:** Kristin Dudek was designated chair and Brett Eisenberg as the co-chair. At the first meeting, this subcommittee looked at the previous areas of focus related to student outcomes and will be moving forward with addressing these areas.
- 2. Legislative/Regulatory/Policy:** Natasha Bermudez and Brian Pulvino were designated as co-chairs. This subcommittee set their priorities for the new policies they want to address.

3. **Teacher/Provider Certification/Recruitment and Retention:** Kim Black and Suryati Barnes were designated as chair and co-chair. They have been brainstorming challenges related to teacher shortages. Alison Connors suggested they follow-up with Alana Wickware, their NYSED Liaison, for data available about the proposed changes.
4. **Least Restrictive Environment/Inclusion:** Roles for this subcommittee have not been established. The subcommittee is looking at previous goals and objectives and are focusing on inclusiveness, and a review and analysis of access. The subcommittee will be exploring issues relating to access and ways to maximize participation of students with disabilities with their non-disabled peers.
5. **Family Engagement:** Barbara Martorana provided an update for this subcommittee. The first meeting had only had two participants and a chair and co-chair have not been identified. The subcommittee has not yet decided on a specific topic(s) or focus.

CAP Bylaws

Chairperson Escobar acknowledged the work the Business Subcommittee has done in revising the CAP Bylaws. Barbara Martorana updated the members on the Business Subcommittee's continued work with NYSED staff on the revisions to the CAP Bylaws. The goal is to have the Bylaws ready for a vote at the fall meeting. A draft will be provided to members for review prior to the meeting. CAP Bylaws consist of both federal and State requirements as well as open meeting rules. The Bylaws were last updated in 2013 and are being revised to clarify procedures and address issues such as member attendance.

CAP Annual Report for 2021-22

Chairperson Escobar informed members that the CAP Annual Report for 2020-21 was submitted to the Commissioner of Education, Betty Rosa, as well as to the NYS Governor and Legislature. The CAP Executive Committee will work with NYSED staff to draft the 2021-22 annual report, with the goal of having it ready for review and approval at the fall CAP meeting. Each subcommittee will be asked for a summary of their work for inclusion in the 2021-22 CAP Annual Report.

2022-23 CAP Meetings

Members were informed that the CAP meetings for 2022-23 will be in-person with the option of participating virtually. The meetings will be at the New York State Education Department in seminar rooms 5 A & B in Albany, New York, where the meetings were previously held prior to COVID. The dates of the 2022-23 meetings were shared with members and sent to members via the CAP Listserv:

Thursday, November 3, 2022: 12:00 PM – 4:30 PM
Friday, November 4, 2022: 9:00 AM – 12:00 PM

Thursday, March 2, 2023: 12:00 PM – 4:30 PM
Friday, March 4, 2023: 9:00 AM – 12:00 PM

Thursday, May 18, 2023: 12:00 PM – 4:30 PM
Friday, May 19, 2023; 9:00 AM – 12:00 PM

CAP members were informed of changes in procedures for travel costs for in person meetings and that additional details about the changes will be sent via the CAP Listserv prior to the fall meeting date.

Members were polled regarding their suggestions for meeting topics and were informed that they would be sent a link to an online form to give them the opportunity to provide additional input.

Closing

Chairperson Escobar adjourned the May 2022 CAP meeting.