

**New York State’s Commissioner’s Advisory Panel for Special Education Services
November 3-4, 2022, Meeting Minutes**

New York State’s (NYS) Commissioner’s Advisory Panel for Special Education Services (CAP or Panel) held its scheduled fall meeting November 3-4, 2022, through a hybrid in-person/remote model.

MEETING OF CAP November 3rd at 12:00 PM

Members Who Participated:

Lynette Aqueron, Suryati Barnes, Natasha Bermudez, Kimberly Black, Alicia Bockmier, Naomi Brickel, Tim Bromirski, Kimberly Clarke, Olga Nelly Collazo, Harold Dean, Kristin Dudek, Brett Eisenberg, Mary Jo Ginese, Michelle Gode, Alexis Harrington, Stacy Lyles, Barbara Martorana, Eileen Murtha, Jennifer Pankowski, Raymond Pierce, Lori Podvesker, Raquel Schmidt, Mara Vanderzell, Mindi Wapner, Danielle Williams.

MEETING OF CAP, November 4th at 9:00 AM

Members Who Participated:

Lynette Aqueron, Natasha Bermudez, Kimberly Black, Alicia Bockmier, Naomi Brickel, Tim Bromirski, Kimberly Clarke, Olga Nelly Collazo, Harold Dean, Kristin Dudek, Brett Eisenberg, Michelle Gode, Alexis Harrington, Stacy Lyles, Barbara Martorana, Eileen Murtha, Jennifer Pankowski, Raymond Pierce, Lori Podvesker, Raquel Schmidt, 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; Associate Commissioner, Office of Bilingual Education and World Languages (OBEWL), Elisa Alvarez; 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; OBEWL Supervisor, Ross Garmil; OSE Associates/NYSED CAP Designees: Sandra Cote, Dawn Kalleberg, and Alana Wickware.

General Business

Chairperson Barbara Martorana called the meeting to order at 9:00 A.M. This was followed by the review of the Zoom protocol and participation tips by Dawn Kalleberg.

On day one of the meeting, CAP roll call was taken verbally. On day two, CAP members participating remotely were asked to place their name and constituency in the chat box for attendance purposes. Members of the public participating remotely were 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

See Action Item “May 19-20, 2022, Meeting Minutes”

Executive Committee Report

Chairperson Martorana requested that members verify their contact information on the membership list is correct and up to date. CAP member duties were reviewed.

Chairperson Martorana introduced the following new members appointed for three-year terms and representing the following constituencies:

- Parents of Children with Disabilities - Alicia Bockmier and Kimberly Clarke;
- Administrators of Programs for Children with Disabilities - Janet Encarnacion; and
- Ad Hoc Member - Raymond Pierce, NYS Department of Health

Outgoing members were recognized for their years of service on CAP:

- Kathy Doody: 12 years of service, primary constituency - Parent of a Child with a Disability, secondary constituency- Representative of an Institute of Higher Education (IHE)
- Brian Pulvino: 15 years of service, primary constituency - Individual with a Disability, secondary constituency, Administrator of Programs for Children with Disabilities
- Yvonne Sinisgalli: 12 years of service, primary constituency - Parent of a Child with a Disability, secondary constituency- Representative of an IHE

Alison Conners reported that CAP currently has one vacant position for the constituency "Individual with a Disability" and encouraged members to refer any potential candidates to the CAP website for information about applying. Ms. Conners also shared information with CAP members regarding the [State Advisory Panel-State Interagency Coordinating Council's \(SAP-SICC\) website](#), where upcoming and previous quarterly webinars can be accessed. Members were provided with information on the November 16, 2022, webinar: *Establishing Effective Panel: ICC Bylaws* and encouraged to register to attend.

ACTION ITEMS

May 19-20, 2022, Minutes

Secretary, Danielle N. Williams, provided a high-level summary of the minutes from the May 2022 CAP meeting. Members were given the opportunity to provide comments/corrections. Chairperson Martorana asked members for a motion to accept the minutes. A vote was taken by zoom poll and in person.

MOVED, that the May 19-20, 2022, meeting minutes be approved.

Motion by: Kristin Dudek

Seconded by: Raquel Schmidt

Action: Motion carried. One member abstained.

Election of Officers – Vice Chairperson and Secretary:

Chairperson Martorana informed members that a vote would be taken to elect the new Vice-Chairperson and Secretary for the 2022-23 CAP year. CAP members were provided the opportunity to nominate candidates for these positions prior to the meeting using an online nomination form. Chairperson Martorana informed members that nominations included Danielle Williams for Vice-Chairperson and, Danielle Williams and Kristin Dudek for Secretary. Chairperson Martorana asked for any additional nominations from the floor. With no additional

nominations made, Kristin Dudek was elected as Secretary and Danielle Williams as Vice-Chairperson for a one-year term by unanimous vote.

CAP Annual Report 2021-22

The 2020-21 CAP Annual Report, summarizing the work of CAP during the 2021-22 school year, was shared with the Panel members for review prior to the November 2022 CAP meeting. Chairperson Martorana also reviewed the CAP Annual Report at the meeting and asked members for a motion to accept the report.

MOVED, that the “New York State Commissioner’s Advisory Panel (CAP) for Special Education Services Annual Report – July 2021-June 2022” be approved.

Motion by: Harold Dean

Seconded by: Raquel Schmidt

Action: Motion carried.

DISCUSSION ITEMS

Remarks from OSE Leadership

Assistant Commissioner Christopher Suriano welcomed participants and relayed the importance of the recommendations and discussions that take place at CAP meetings and the impact these have on the work within NYSED. Policy updates were shared on the following:

Amendment of Regulations to Disability Classification Emotional Disturbance

At their July 2022 meeting, the Board of Regents approved the [Permanent Adoption of the Amendments to Sections 200.1 and 200.4 of the Regulations of the Commissioner of Education Relating to the Disability Classification “Emotional Disturbance”](#) to change the term “emotional disturbance” to “emotional disability.” Committees on special education (CSE) are not required to amend individualized education programs (IEP) that have already been developed for the 2022-23 school year but must begin using the term “emotional disability” in place of “emotional disturbance” for student disability classifications for IEPs developed or amended on or after the July 27, 2022, as well as on other related documents.

Students with Disabilities - All Grades Certificate

At their September 2022 Board of Regents meeting, the [proposal to amend regulations relating to establishing the Students with Disabilities All Grades certificate](#) was adopted, effective September 28, 2022. This new certificate permits individuals to teach students with disabilities in pre-Kindergarten through grade 12 in NYS public schools. Assistant Commissioner Suriano noted that this amendment creates flexibility to fill positions in shortage areas, reduces barriers to obtain grades 7-12 content area certification, and creates a streamlined pathway to obtain one or more grade 7-12 content area certifications. The birth - grade 2 certification remains. IHEs are making programmatic changes to ensure that graduates who receive the SWD (all grades) certificate have the skills to teach across all grade bands. Current teaching certifications are still valid and certificate holders are not required to obtain the SWD (all grades) certification. Additional information is posted on [Students with Disabilities \(All Grades\) Certificate Summary and Frequently Asked Questions \(FAQs\) webpage](#).

Chapter 516 of the Laws of 2022

Effective August 17, 2022, [Chapter 516 of the Laws of 2022 \(Chapter 516\)](#) amended NYS Education Law to require same day notification to a parent when a school district uses a physical or mechanical restraint and/or places a student with a disability in a time out room. Assistant Commissioner Suriano clarified that mechanical restraints are prohibited in New York and are not an allowable behavior modification intervention. Chapter 516 does not specify the type of notice required (i.e., verbal/ or written). If a parent is unreachable, attempts must be documented and reported to the CSE. NYSED will be issuing guidance to the field regarding chapter 516 in the coming weeks.

Chapter 223 of the Law of 2022

[Chapter 223 of the Law of 2022 \(Chapter 223\)](#) authorizes school districts to provide education services in the 2022-23 and 2023-24 school years to students who turned 21 during the 2021-22 school year, were enrolled in school, and had an IEP. Educational services may continue until the student completes the services pursuant to their IEP, or turns 23 years old, whichever is sooner. School districts are not required to provide education services to these students but are strongly encouraged. Chapter 223 does not apply to students who turn 21 during the 2022-23 school year.

Opportunity to Return to School in the 2022-23 School Year Due to the Impact of COVID-19

In August 2022, NYSED issued guidance entitled, [Providing Over-Age Students, the Opportunity to Return to School in the 2022-23 School Year Due to the Impact of COVID-19](#) strongly encouraging schools and school districts to allow those students who aged out at the end of the 2021-22 school year with the opportunity to attend school in the 2022-23 school year, in order to complete their education and earn a diploma, credential, or endorsement.

Exiting New York State Alternate Assessment Students (NYSSA) from English Language Learner (ELL) Status

Associate Commissioner Alvarez; Joanne LaCrosse, Eileen Borden and Ross Garmil presented information on a potential strategy to allow ELLs with severe cognitive disabilities who take the NYSAA to exit ELL status by achieving specified performance levels on the New York State English as a Second Language Achievement Test (NYSESLAT) and on the English language arts (ELA) component of NYSAA. This alternate exit criteria would be comparable to the criteria used for students who take general State assessments to exit ELL status through a combination of specific scores on the NYSESLAT and the State's grade 3-8 ELA assessment or Regents ELA examination as described in Commissioner's Regulations [section 154-2.3\(m\)\(1\)\(ii\)](#). CAP member feedback was obtained regarding on the following discussion questions:

1. Should NYSED establish alternate criteria for ELLs who are also NYSAA eligible to exit ELL status?
2. What would be the pros/cons of establishing such alternate criteria?
3. What combination of NYSAA ELA and NYSESLAT scores would be appropriate to determine English language proficiency?
4. If this alternative criteria is approved and implemented, how do we ensure that parents are fully informed about this new procedure?

CAP members provided preliminary feedback during the presentation and were informed they would be provided with the opportunity to give additional feedback through an online survey.

Public Comment

No public comment was provided.

State Performance Plan (SPP) Breakout Groups

The CAP members were assigned to in-person and virtual breakout rooms to receive information and provide feedback on three of the SPP performance indicators. Breakout groups reported out to the full Panel.

Breakout Room 1: SPP Indicator 6 - Preschool Least Restrictive Environment (LRE)

- OSE Staff provided information on where preschool special education students receive services (e.g., home, Universal PreK program, special class) and the availability of integrated preschool programs.
- CAP members provided feedback on how to increase awareness of LRE and remove barriers to the provision of preschool special education services in inclusive placements.

Breakout Room 2: SPP Indicator 8 - Parent Involvement

- OSE Staff presented information on the parent involvement survey and data collection process including response rates and results.
- CAP members provided feedback on the survey format and questions as well as input on increasing the response rate of underrepresented groups.

Breakout Room 3: SPP Indicator 14 – Post-School Outcomes

- OSE Staff presented information on the post-school outcomes measurement, student survey and data collection process including response rates and results.
- CAP members made recommendations for updating the survey and assisting schools in preparing students to participate in the post-school interview process.

Unmet Needs

The CAP members were randomly assigned to virtual breakout rooms to discuss and identify current unmet needs in the education of children with disabilities in NYS and report out to the larger group. Members identified the following unmet needs:

- Transition needs considered broadly
 - Transition from early intervention to preschool services to school-age services
 - Post-secondary transition
 - Transition to the community from mental health or correctional settings
- Teacher, related service provider and placement shortages and retention for preschool and school age students with disabilities, including mental health treatment providers.

Subcommittee Reports

1. **Student Performance Outcomes:** The subcommittee has met monthly and is reviewing the Board of Regents discussions on diploma types, performance outcomes, and transition supports.

2. **Legislative/Regulatory/Policy:** The subcommittee met twice this year to set topics for 2022-23 by reviewing the work from 2021-22, as well as reading and categorizing current active bills. The subcommittee would like the input of the full Panel on ranking and prioritizing proposed legislation in the 2022-23 session, in consideration of the unmet needs identified by members at the November 2022 meeting. They will create a survey for OSE to review so that feedback from Panel members can be obtained.
3. **Teacher/Provider Certification/Recruitment and Retention:** The subcommittee met in June 2022 to discuss the proposed students with disabilities (all grades) certification. Since the comment period on the proposed regulations ended in August 2022, prior to the next CAP meeting, comments drafted by the subcommittee asking the Board of Regents to consider K-8 and 5-12 certification grade bands to help maintain retention of staff, were submitted by a subcommittee member as an individual member of the public. The subcommittee reported that current concerns in the field are related to the high turnover rate of teachers, teachers feeling unprepared with behavioral management techniques, and how the impact of the requirement for an additional 18 credit hours in a content area will impact teachers in resource room or special class settings.
4. **Least Restrictive Environment/Inclusion:** At this time, the subcommittee is in need of additional/new membership and would like to schedule a meeting right after the November 2022 CAP meeting to review notes from the breakout sessions and revise next steps and goals.
5. **Family Engagement:** The subcommittee met in October 2022 and is focused on the importance of looking through a family lens and determining how information is reaching parents and families. One goal identified by the subcommittee is increase public participation and determine how best to provide information to families.

Business Committee: This subcommittee did not meet over the summer. Last year, the focus of the work was updating the CAP Bylaws. See “CAP Bylaws.”

Chairperson Martorana led a discussion about ongoing member participation in subcommittees, including incorporating subcommittee meeting time into the regular CAP meeting agenda.

CAP Bylaws

Chairperson Martorana and Alison Connors presented an overview of the updates and substantive proposed changes to the CAP Bylaws recommended by the Business Subcommittee. A draft of the revisions to the Bylaws was shared with members to review and will be discussed and voted on at the March 2023 CAP meeting.

Closing

In honor of her upcoming retirement, Sandra Cote was recognized for her 14 years of service as the NYSED CAP designee.

Chairperson Martorana adjourned the November 2022 CAP meeting.