

# COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN

State Board of Education Room

NC Dept. of Public Instruction

September 20, 2017

Summary of Actions

## **Welcome, Call to Order, Introductions, Review of Agenda, Annual Report**

Chairperson Leanna George called the meeting order. Council members provided self-introductions. The agenda was in the meeting packet. Council members were provided a copy of the Annual Report submitted to the October State Board of Education agenda.

## **Review of Meeting Minutes – June**

A review of the June transcript may necessitate an edit to the June Summary of Actions to include a public comment letter that was referenced. Council approved the June Summary of Actions with edits, if applicable.

## **Agency Updates**

Exceptional Children Division (ECD) Director William Hussey provided updates.

ECATS – Exceptional Children Accountability Tracking System – There are upcoming meetings with senior DPI leadership to facilitate the process. The EC Division trying to make sure data sets are clean for the transition to ECATS. ECD and Public Consulting Group (PCG) will present a rollout timeline (late Nov/early Dec for production of IEP forms; Feb. for pilots of IEP forms; and March/April rollout for MTSS portion) at a session at the CASE conference.

EC Funding – The stakeholder group has finalized a service-based funding matrix and the ECD is wanting to share the matrix with the legislature. The legislature is convening in October to take an overall look at educational funding at the LEA level and how DPI interfaces. Currently, EC is funded on a per child basis; the proposed funding matrix is service based. Districts use most all state and federal dollars for positions; very little money is designated for programing. Medicaid is a funding avenue to assist with programming.

Related Services - Some parts of the state have a hard time securing services for OT, PT, speech as well as autism. There are some ideas for a long-range plan to address these issues. One idea is an LEA hub, where a larger LEA in a geographical region can “expand needed” services. Co-op model is another idea. Groups of LEAs could do a Memorandum of Understanding (MOU) and hire personnel based on need. A third idea is teletherapy for OT and speech.

Budget Cuts – DPI cut 3.2 million this year. DPI did lose 20 people in RIF. DPI has cut travel. Legislature also asked for another 3.2 million for next year which will be harder since no operational costs exists now. There is also an upcoming audit.

Professional Development Catalog – ECD has now created an online PD catalog based on LEA-Self-Assessment data. There is a process to request items outside of the LEA-SA. This will be maintained based on annual LEA-SA needs.

EC Conference – Council members may attend the general EC conference for free and pay the additional amount for an institute, if selected, with the exception of Administrators’ Institute. Bill will re-present his presentation from conference to the Council in December.

SIMR – State Identified Measurable Results – SIMR is an annual report to the federal government. NC’s focus is on graduation rates. Within three years, SWD moved from a 67% graduation rate to 71% (four year) and 72.3% (five year). The SIMR goal is to obtain 76% graduation rate within five years and NC appears to be able to meet the goal. This is extremely exciting. SWD test scores are included in LEA overall test scores, so as SWD four-year graduation rate increases, the five year will decrease. Regular ed student graduation rate grew at a rate of .9; SWD grew at a rate of 1.8.

MTSS – Multi-Tiered System of Support - There are no actual timelines in the MTSS framework. Suspicion of disability is a big discussion at DPI level. Accumulative, summative data is also a hot topic. Prior to implementation, DPI will need to provide more training on MTSS side and to the EC side relative to “suspicion of disability”. Parents still maintain the right for testing/evaluation at any time. Nothing inside MTSS takes away parents’ rights to ask for evaluation/testing. The process for special ed identification, eligibility process has not changed due to MTSS.

## **Significant Disproportionality – Council Feedback**

Nancy Johnson, State Performance Plan Consultant, via phone presented an update on equity in IDEA and the new significant disproportionality regulation which must be implemented as of July 1, 2018. In September, the Council

reviewed the regulations, provided feedback and requested additional information presented at this meeting on risk ratio threshold, the cell size, the N size and reasonable progress.

Risk ratio threshold looks at how likely a student with disability (SWD) of a certain race is likely to be included in comparison for all SWD of all other races or in comparison to the enrollment population of the district. It all depends on if looking at identification, placement or discipline. NC generally uses risk ratio of 3.0 as threshold for disproportionate representation.

Cell size is the number of students of that race/ethnicity in that specific topic area. OSEP said a cell size of ten is reasonable. The N size is the number of students versus the total students with disabilities population if looking at discipline or placement. OSEP said a reasonable N size is 30 or less. Most of the feedback from stakeholder groups indicates for NC to use what OSEP thinks is reasonable, a cell size of ten and an N size of 30.

Discipline significant disproportionality new regulations would include 2017-18 data as the current year data and NC would use the previous two years, 2016-17 and 2015-16, data. Preschool children, ages three through five, have to be included beginning July 1, 2020, which also make them part of the significant disproportionality data. NC currently does not collect suspension/expulsion data on preschool children. For discipline, their current year would be the 2019-20 and then two previous consecutive years.

Nancy reported on an analysis of how many LEAs in NC would be on the warning lists if NC went as low as a 2.5 risk ratio and above 3.0 up to 4.5; 3.0 being a relatively high risk ratio. NC has 13 districts on the discipline significant disproportionality list and another 16 on the warning list; totaling 29 LEAs that are in jeopardy of having significant disproportionality in discipline. Five categories were reviewed: 1-all suspensions; 2-out of school suspensions greater than ten 10 days; 3 out of school suspension 1-10 days; 4-in school suspensions greater than 10 days; 5-in school suspensions 1-10 days. If NC did a risk ratio of 2.5 or greater, for all suspensions, NC would have 66 LEAs on the warning list.

NC has to base it's justification to OSEP from all stakeholder input, but also has to consider what is best for students and the capacity the state has to provide technical assistance and professional development to assist districts in resolving the issue.

The Council should provide its feedback to Nancy by October 15.

### **Public Records / Open Meeting Laws**

Jason Weber, attorney for State Board of Education and the Council, provided a disclaimer that his main purpose today is to share information and take questions about what the law requires. If there are questions about specific circumstances, he will discuss at an appointed time as opposed to during this information session.

The Council, as a public body, is subject to public records requests. The law applies to anything that is in recorded form...writing, video, audio, art. It is important to think about any documents the Council creates, emails – sent and received – email attachments, text messages, and drafts of reports – whether it's the first draft of something or the final draft, correspondence, memos, or meeting agendas. All may be subject to public records requests.

According to FERPA, Family Educational Rights and Privacy Act, student files, other education records, former student records, student PII – are not subject to public records law. This public record would require redacting of the student/personal information.

The Council is also subject to open meeting laws just by the very public nature of its purpose. If a majority of the members of a public body meet to conduct public business, public notice is required. The notice has to include the purpose, time, date and location. Meeting minutes, audio/video, webinar recordings must be made available to the public upon request. The open meetings law applies not just to the body itself but to subcommittees as well.

The law also applies to communications between Council members. If this Council were all copied on an email and members started responding, are they actually having a meeting in doing so? DPI encourages members not to engage in

massive email chains with the entire Council because there could be a claim that the Council is somehow violating the open meeting law. Text messages are applicable as well. It does not apply to social gatherings.

Open meetings do have the opportunity for closed session which is outside of the public eye and can only happen for a certain number of reasons listed in the statute. Closed session is allowed for discussion of confidential records. If there is a reason to be discussing specific student information where there are student names and education records. If the Council needs legal counsel, that could occur in closed session. If the Council feels a closed meeting is necessary, they should consult the SBE attorney.

### **Public Comments**

None

### **Discussion on Significant Disproportionality**

Council members had some discussion about lowering the risk ratio to 2.5 or keeping it at 3.0. Bill Hussey reminded the Council that with discipline, it is not just a special ed issue. If they went into just about any school and looked at suspension data or in-school suspension data, whether they were looking at EC or not, that disproportionality exists all the way across. We've really got to get to general ed as well. DPI is moving the Behavior Support Section to MTSS because they are the PBIS branch, and PBIS is a regular ed piece, not a special ed piece, and so we're moving our staff to the other division to do that. That move will happen in December.

Council asked about the consequence of being on the warning list. Basically, 15 percent of an LEA's federal funds have to be set aside for prevention and to try to mediate the situation of already identified students that have been suspended too much. Fifteen (15) percent of your budget is significant. Council also discussed the unintended consequences of LEAs being found disproportionate. There are so many variables that come into play.

### **Multi-Tiered System of Supports**

Amy Jablonski, Director of Integrated Academic and Behavior Systems. This division was formed July 1, 2015, and is currently focused mainly on the statewide implementation of a multi-tiered system of support (MTSS). PBIS and RTI were introduced around 2000-2004. We realized that instead of isolating academics and behavior apart from each other, we can solve academic problems with behavior solutions and behavior problems with academic solutions. So this is why we moved to MTSS. We need a framework that addresses both. With the SLD policy change in 2020, we know that all of it has to go together with the MTSS rollout.

Everyone is part of MTSS. It is a framework for school/district improvement. Systems level planning or design is critical to the success of MTSS. Mastering scheduling is essential to ensure all students have access to the standards and core plus more. It is a myth to believe that MTSS focuses on interventions for struggling students. That is a piece, but it's not the whole thing. MTSS is about accelerating learning through changes in the environment, curriculum design, instructional practices, and how we look at data to amplify the results.

MTSS focuses on shared leadership and a climate that believes all students not only can learn but can meet standards. We help districts and schools focus on their implementation plan. How are we making sure that our students are actually accessing the standards? Communication / Collaboration is horizontal, vertical, internal, and external. Data based problem-solving and data evaluation helps LEAs focus on their implementation data.

The three-tiered instruction/intervention model is about layering supports, not supplanting them.

Tier I: Core-- All students get core instruction.

Tier II: Supplemental – Core plus more. Evidence based practices must be readily available.

Tier III: Intensive Instruction – should only be 5% of students. It is layered on top of Tier II.

In MTSS, the only thing that separates these tiers is the intensity of the instruction, the intensity of the support. Everybody has access to all tiers. If a student walks in a school tomorrow and it's a general ed student and their data shows they need the most intensive level of instructional supports, then they get it then. It is a route to closing gaps and accelerating learning. Focus on how is "everyone" is performing. All students are general ed students first.

MTSS is rolling out as a cohort model. All traditional LEAs are in cohorts. About 62 charter schools are in cohorts right now, but DPI is doing a special Cohort 5 starting in January just for charters. MTSS has a 5 year implementation plan. They are working on the MTSS module for the ECATS. It will have a very robust early warning system in place.

There is a wikispace and Livebinder available online for anyone who wants to see what is used with the districts. Council members did express concern that there is not enough understanding of MTSS at the local levels, especially for parents.

### **Committee Work**

There was further discussion about significant disproportionality risk ratios. The Council will meet by conference call to make a recommendation to Nancy Johnson before October 15.

### **Adjourn**