

COUNCIL ON EDUCATIONAL SERVICES FOR EXCEPTIONAL CHILDREN

State Board of Education Room

NC Dept. of Public Instruction

December 13, 2017

Summary of Actions

Welcome, Call to Order, Introductions, Review of Agenda

Chairperson Leanna George called the meeting to order. Council members provided self-introductions. Members were asked to review the agenda and September Summary of Actions. September Summary of Actions were approved.

State Performance Plan (SPP)/Annual Performance Report (APR)

Nancy Johnson, SPP/APR Consultant, advised Council members to write "Draft" on the SPP/APR handout in the meeting packet. Nancy also advised this document is always a work in progress until the submission date of Feb. 1. The APR is part of NC's General Supervision requirement. The handout included a slide describing each Indicator and important dates associated with the SPP/APR. The State Systemic Improvement Plan (SSIP) required for Indicator 17 is submitted April 1.

NC is required to submit/explain slippage (more than 1% difference from previous percentage) from the target. NC is very excited about the progress with Indicator 1 and 17 – graduation; the four-year graduation rate (73.1%) of students with disabilities (SWD) and the five-year graduation rate (68.9%).

Reading and Math participation rate – SWD have a greater than 95% participation rate. This includes regular and alternate assessments at Level 4 and 5. Level 3 is even more positive participation for SWD. The data indicates that focus needs to be on the sixth and seventh grades especially in preparing students for high school.

Good news – 2015-16 data for suspensions/expulsions for SWD – 0 of 275 LEAs are identified as having a significant discrepancy in the rates of greater than 10 days suspensions/expulsions of SWD.

LRE – NC maintaining 66.8% SWD receiving services in regular classroom.

Parent involvement – Indicator 8 – looks at LEAs reporting schools facilitating parent involvement as a means for improving services and results for SWD. Not every LEA is surveyed every year. It is a random sampling on a five-year cycle. LEAs with a 50,000+ student population have a random sampling of parents every year. NC's target is 50%; NC's rate is 43% (-3.0 percentage points). NC will have to provide a narrative regarding the slippage due to poor response rate on the surveys. ECD is looking into ways to improve response rate in the future.

Disproportionate representation – There are more charter schools on the list now; high numbers of white students with autism is a significant factor in the increase of charters on the list. ECD has to make sure LEAs are following policies and procedures in identification.

Transition – NC is in the 90% percentile for transition—no red flags.

Post-school outcomes – There is a tremendous increase in response rate this year due to LEAs conducting the surveys rather than contracted company. LEAs have done a fabulous job of following up on students regarding post-school activities.

Resolution sessions and mediations – percent of hearing requests resolved with settlement agreements (50%) and mediations (78.95%) reaching an agreement. Mediations may be more successful due to both parties being at a more negotiable attitude.

The Council asked if the raw data for the reports were available. The end of year reports are on the ECD website.

Significant Disproportionality

Nancy Johnson provided a handout of the October 13 webinar summary. NC is required to be ready to go with new IDEA regulations in July 2018. ECD will submit changes in what NC uses for calculation. OSEP is considering postponing regulations for two years to consider implications to states.

OSEP has issued proposed rulemaking—states not required to submit decisions in May application. Cell size, n size risk ratio not being required to submit in May to OSEP.

Nancy asked about Placement and if the Council had any concerns as a follow-up from the webinar. States do not have to recommend same risk ratio across the board. Most states have risk ration of 3.0, some with 3.5; most common across states is 2.5 / 3.0.

Other stakeholder groups have recommended 3.0 risk ratio for identification and placement. LEAs are already use to these numbers and OSEP has accepted it as reasonable.

Committee Work/Committee Reports

Reports & Data:

Discussed ratios and felt there is a moving away from the needs of children vs needs of DPI - concentrating use of funds, OSEP submissions - not child centered. Kids should not be suspended unless in danger. Concern should not be capacity at DPI/LEA. It is important to make sure kids are not being penalized for their disability. Suggested tools for administration to identify disability-related behaviors.

Unmet Needs	Diane Coffey
Policies & Procedures	<i>Vacant</i>
Executive Committee	Leanna George

Public Comments

One in-person public comment from parent and child with autism. The parent is concerned with the LEA not implementing the IEP. Parent is suggesting better resources for newly diagnosed disabled children, clear expectations regarding discipline, and available services to children with disabilities.

Written comments (4) –

1. Student has been switched to NC VPS due to overwhelming reasons. During last two years, significant math learning disabilities, did not pass math 1; qualified for CTE courses; problem is limited options in NC VPS. Cannot get math credit needed due to limited options. Asking for other options be considered. Create system of approval where child's needs can be met and credits obtained. IDEA waiver – paired courses count as 1 or 2; update option; no new options since 2014.
2. Wanting to provide feedback regarding ADHD intolerance from teachers; child says teacher yelling daily, don't care if have ADHD, just pay attention, child is angry, teachers not trained to deal with all children, but should not disregard child's needs. Asked for other ways to help so this does not continue to happen to other children.
3. Just moved to NC, child does receive services in separate setting, wants state to address EC teacher shortage-state and nationwide, there is high turnover and a need for aides, SBE should address shortage, partnerships with university in and out of state, co-teaching to create prepared teachers.
4. CHCC student attending resources in general setting; have two settings – resource or general ed; behaviors not letting child function properly in these settings, challenging system with complaints. Teacher not able to handle challenges; suggests teachers and TA trained in basic behavior techniques; tools for typical and nontypical behaviors; similar program in New York City. LEA not implementing IEPs.

Dispute Resolution for 2016-2017

Bill Hussey, Director of EC Division, advised NC's facilitated IEP program is the oldest in the nation. Requests for facilitated IEP meetings may be submitted by LEAs or by parent – both indicate "someone" needs help. The total number of requests for 2016-17 were less than the previous year. SLD is largest area of disability and is ranked second for facilitated IEP requests. Facilitators are contracted individuals from across the state and have experience with IEPs, such as former EC Directors and EC Division staff. The facilitator's purpose is to keep meeting and content on point so parties can come to an agreement. The facilitator does not determine right or wrong for either party but provides guiding questions to facilitate conversation/agreement. Facilitated IEP meetings are generally completed in one session.

Parents have access and should use each and every part of dispute resolution pieces. Important for parents to participate in mediation, parents should be actively engaged.

State complaints – relate to procedural safeguards; examples, IEP not reviewed annually, IEP not implemented as written, is there process or procedure preventing a child accessing FAPE. If the LEA has issues that can be investigated, the LEA is found to be compliant and/or noncompliant on the issues. DPI asks for supporting documentation from the LEA and complainant. If the LEA is found in noncompliance, compensatory education services may be part of the resolution, or LEA staff training. There is a debriefing between the LEA and EC Division upon a finding of noncompliance and EC Division tracks the LEA's corrective action and closes the case when correction actions are complete.

Due Process – there is now a trend in the increase of cases going to due process. Different attorneys looking at different information and deciding how to move forward with their cases. Difference in way litigation is moving forward. Due Process averages 50% success of resolution sessions.

NC has a dual-tiered appeal system. First is due process hearing with administrative law judge at Office of Administrative Hearings. Second level is appeal to a State Hearing Review Officer (SHRO). These are individuals, typically professors of law, specializing in special education law; this is not retrying case, but the SHRO does read transcript, testimony, artifacts and reviews conclusions. SHROs have authority to uphold some, all or none of the conclusions. The case can be further appealed to federal court. This is NC's system of checks and balances.

Mediation – is guided by a mediator. Either party can be represented by attorney. It is a confidential meeting and the signed agreement is immediately binding.

Carol Ann Hudgens, Section Chief for Policy, Monitoring and Audit, shared some thoughts on the Supreme Court decision for *Endrew* which challenged the FAPE standards for progress for progress sake. The FAPE standard that NC has been operating under is that any progress that a student with a disability is able to achieve meets the requirement for the free appropriate public education. The Supreme Court decision challenged the notion that progress for progress sake may not actually be appropriate, even though each child has a unique opportunity to show progress. A child's IEP has to be appropriately calculated based on that child's unique circumstances so the measure of progress is based on what the child is able to accomplish, should reasonably be able to accomplish, over the life span of an IEP; and if it is appropriately calculated, to do so. The Office of Special Education Programs put out a Frequently Asked Questions relative to the *Endrew* case and what that means because all states are wrestling with how should we appropriately raise that bar, how can we measure that, what kind of support can be put in place to document unique circumstances for children and how we are progress monitoring their progress.

Agency Updates

Bill Hussey, Director of Exceptional Children Division, provided updates on the following:

EC Funding – moving forward trying to get different funding formula; met with legislative representatives, talked through process as a concept and believe they're in agreement. Instead of flat rate, needs to be fee for services; rate – regular classroom setting, separate classroom setting and rate for most complex kids, medical/cognitive needs. A “raise” commensurate to actual services. In most difficult cases, it could cost an LEA \$20,000, LEAs now receive \$10,000. If child got everything possible, it would be \$100,000 in services. Risk Pool will still be in place with new funding formula.

Medicaid – free care – in last throws of presenting our own plan for the Division of Medical Assistance (DMA). Additional \$80 million that we could potentially have access to about half for reg ed kids that are Medicare eligible. State auditor said all cost reporting dollars go the special ed. Charter schools would also be included.

ECATS – pilots will start in Feb. with the IEP and Medicaid components; MTSS forthcoming in April. There will be two weeks of field testing by the pilots on the functionality. Then pilots will test the federal reporting processes. ECATS will provide data like never had before. Dark period is down time between CECAS / Easy IEP being down and data from both systems going into ECATS.ve to go into ECATS.

Announcements

Vicki Simmons recognized as Educator of Excellence at 67th Conference on Exceptional Children.

Adjourn