

**SPECIAL EDUCATION ADVISORY COMMITTEE
MEETING MINUTES**

WEDNESDAY, FEBRUARY 16, 2022 – 10:00 A.M. TO 2:00 P.M.

Public Meeting at:

Zoom Meeting
[Zoom Meeting Link](#)

Meeting ID: 816 1389 4104

Passcode: 2022

1. INTRODUCTION. The regular meeting of the Special Education Advisory Committee (SEAC) was called to order. Roll call was taken, and quorum was determined:

Present: Anna Marie Binder, Ivy Burns, MaryAnn Demchak, Jessica Dunn, Leah Edge, Shirley Gaw, Lisa Hunt, Ellen Marquez, Travis Mills, Mathew Montgomery, Joseph Morgan, Melina Proffitt, Jodee Prudente, Lisa Rosas, Jackie Sheppard, Karen Taycher, and Jennifer Van Tress

Absent: Diana Cannon, Marva Cleven, Penni Echols, Candace Emerson, Connor Fogal, Danielle Fredenburg, Roy Harvey, Sara Jorgensen, Kati Layosa, and Aliceandrea Untalan

Staff: Julie Bowers and Jessica Boles

Presenters: Jennifer Kane and Cathleen Rexing, Office of Inclusive Education

Public: Ashley Price, Fredina Romero, Nancy Kuhles, Marie Neisess and Austin Olson

2. PUBLIC COMMENT #1

Public comment from Nancy Kuhles in written form and read by committee secretary, Jessica Boles.

3. APPROVAL OF FLEXIBLE AGENDA

Motion: Joe Morgan moved to approve the flexible agenda. Jessica Dunn seconded the motion. The vote was called, and the motion carried without objection.

4. APPROVAL OF MINUTES

The minutes of the September 22, 2021, meeting was reviewed and discussed. There were no other changes or corrections offered at this time.

Motion: Anna Marie Binder moved to approve the minutes. Jodee Prudente seconded the motion. The vote was called, and the motion carried without objection.

The minutes of the December 8, 2022, meeting was reviewed and discussed. There were no other changes or corrections offered at this time.

Motion: Matt Montgomery moved to approve the minutes. Melina Proffitt seconded the motion. Joseph Morgan and Shirley Gaw abstained. The vote was called, and the motion carried without objection.

5. PROGRAM SPOTLIGHT

I. Nevada Dual Sensory Impairment Project

The committee received information on The Nevada Dual Sensory Impairment Project. This presentation will highlight project eligibility and technical assistance services provided to parents, educators, and other service agencies in meeting the educational needs of children who are deafblind. Discussion ensued:

- To enhance the educational services provided to all children and youth, birth through 21 years of age, who have dual sensory impairments by providing technical assistance to families and service providers.
- Who is eligible for each project?
 - Vision and hearing impairments
 - Can also have other disabilities:
 - Intellectual/cognitive disabilities
 - Orthopedic/ physical impairments
 - Other health impairments/ complex health care needs
 - Communication/ speech / language impairments
 - Emotional/ behavioral disorders
 - Most of the time do have other disabilities in addition to impairments in both vision and hearing
 - How severe do vision and hearing impairments need to be?
- Why do families and professionals want to refer to the project?
 - At no cost:
 - Project newsletter & other TA documents (e.g., tips sheets, posters)
 - Email MaryAnn to request materials or to be added to the newsletter list
 - Print or video resources
 - Informal parent-to-parent network
 - Project sponsored trainings
 - Parent conference
 - Summer Institute

- School district, EI agencies, and others
 - Home and school visits (upcoming video clips)
 - Help in finding resources
 - The project follows children into school districts when they age out of early intervention
- What might we focus on during TA visits?
 - There is often a focus on using touch cues to enhance receptive understanding (touch cue for suctioning)
 - There is often a focus on using cues to enhance expressive communication (requesting “more”- continuation)
 - There is often a focus on enhancing expressive communication (choices)
 - Literacy:
 - Choice of book
 - Shared reading
- What happens after TA visits?
 - Summary of TA Visit:
 - Interactions with child regarding strategies and recommendations
 - Written recommendations
 - Follow up regarding implementation of suggestions
 - Possible additional TA visit(s) or resources
- How many children have been served by the project since 1990 (when the project started)?
 - Over 500 children from birth to 22 years old over the last 32 years have been involved
- Where have we been in Nevada?
 - The map below represents where we have been in Nevada-all over the state, except for four counties/school districts.
 - Also, nearly all EI agencies (at some point)
 - We have never had children from the following school districts: Esmeralda, Mineral, Eureka, or Storey Counties.
 - Green represents locations of children currently involved in the project
 - Red represents locations of children who were formerly involved in the project
- Funding from the U.S. Department of Education and Nevada Department of Education

6. NEVADA DEPARTMENT OF EDUCATION UPDATES

I. NAC Update

The committee received information on NAC updates. Discussion ensued:

- Process and timelines- NAC revision process began in winter 2013-2014.

- Task force included representatives from NV PEP, school districts, SPCSA, UNR and NDE
- Regulations were finalized by Legislative Commission, effective January 30, 2019.
- Codified July 2022
- Technical Changes
 - Throughout the NAC, since 1988, the phrase “special services and programs of instruction” was used in many sections. This phrase has been replaced with “special education and related services” to align with state and federal law. This change alone resulted in 21 revised sections in the NAC.
 - NAC revised to add definitions that already existed in the IDEA, were used in the NAC, but were not defined in the NAC
 - e.g., “business day” (NAC 388.0285), “school day” (NAC 388.1025)
 - NAC revised to change “autism” to “autism spectrum disorder” throughout. This change had already been made in NRS, so Statement of Eligibility for Autism Spectrum Disorder and IEP have already been revised to reflect this change.
 - NAC revised to change “mental retardation” to “intellectual disability” throughout. This change had already been made in NRS, so Statement of Eligibility for Intellectual Disabilities and IEP have already been revised to reflect this change.
 - Need to revise other forms (e.g., Statement of Eligibility for Specific Learning Disabilities) to make conforming changes
 - NAC revised to change “serious emotional disturbance” to “emotional disturbance” throughout. IEP already uses the term “emotional disturbance.”
 - Need to revise Statement of Eligibility for Emotional Disturbance and make conforming changes elsewhere
 - NAC revised to ensure that a “due process complaint” is consistently referred to as a “due process complaint”; and a “state complaint” is consistently referred to as a “state complaint.”
- Changes that Incorporate, Reference, or Clarify Federal Law (IDEA)
 - Expedited Hearings: NAC revised to clarify that under certain circumstances a due process hearing “must be expedited” (vs “may” be expedited) (NAC 388.306.1)
 - Accessible Formats: NAC revised to add new sections incorporating the federal requirements under 34 CFR 300.172 to ensure that instructional materials are timely provided in an accessible format (NAC 388.217).
 - Scientifically Based Research: The ESSA nearly eliminated the term “scientifically based research” in favor of “evidence based”; IDEA regulations were amended to conform. NAC revised to eliminate term

- “scientifically based” (NAC 388.103.2) and to repeal previous definition contained in NAC 388.104.
- However, NAC has a state regulation about “targeted scientific, research-based intervention” (NAC 388.325). Because this is state law (not federal law), we kept our definition of “scientific, research-based intervention” (NAC 388.103) because the term exists within NAC 388.325.
 - Highly Qualified: The ESSA eliminated the requirement for “highly qualified” personnel; IDEA regulations were amended to conform. NAC revised to conform (NAC 388.171).
 - Placement Options for Early Childhood: NAC revised to align with OSEP memorandum describing early childhood placements, as well as IDEA regulations regarding least restrictive environments (NAC 388.245.3). Previously, NAC included a list of placements that included a combination of locations and service delivery methods.
 - Functional Behavior Assessment (FBA): NAC revised to clarify that informed written consent is required if an FBA is conducted as part of making an eligibility decision, or to determine the nature and extent of the student’s need for services (NAC 388.386). This language aligns with long-standing OSEP interpretation and practice in Nevada.
 - Specific Learning Disabilities Observation Requirement: The 2006 IDEA regulations contain a provision that allows the “observation” requirement in SLD evaluations to be accomplished in one of two ways:
 - Use a routine classroom observation that was done before the child was referred for an evaluation, or
 - Have a member of the group conduct an observation after the child has been referred for an evaluation
 - When the NAC was revised in 2008, the task force intended to permit either kind of observation. A mistake in the NAC limited the observation to only the classroom observation after the referral. NAC revised to clarify that either option satisfies the observation requirement (NAC 388.420.5(b) and (6)).
 - Changes that incorporate/reference/ clarify state law (NRS)
 - Dyslexia: NAC revised to add definition of dyslexia (NAC 388.0415). NAC revised to add state-law dyslexia-related considerations to IEP content (NAC 388.284.2(g)). NAC revised to add state-law dyslexia-related assessment component to the evaluation under the SLD category when applicable (NAC 388.420.5(c)):
 - A norm-referenced assessment of whether the pupil has dyslexia, if the public agency has: (1) confirmed the pupil has indicators for dyslexia, (2) provided scientific- research-based intervention and the early literacy assessment, and (3) determined that the pupil needs additional screening to determine whether the pupil has a specific learning disability

- Parent Application to Represent Educational Interests: NAC revised to clarify that upon approved application, parent may continue to represent IDEA educational interests of student until the student earns a “standard high school diploma” (NAC 388.197.4(a)). This revision corrected an error in previous regulations that stated the parent may continue to represent IDEA educational interests until the student earns an “adjusted diploma.” Receipt of an adjusted diploma does not terminate a student’s right to FAPE.
- Placement Determinations: NAC revised to clarify that placement is based on the student’s IEP (NAC 388.245.6), which aligns with other language in the NAC stating that IEP committee provides for the student’s placement in the LRE (NAC 388.245.4). Previous language mirrored federal regulations stating that a placement would be made by a “group of persons…… knowledgeable about the pupil…” In Nevada, placements are made by IEP committees.
- NDE Approval to Exceed Caseload: NAC revised to clarify that the NDE may approve exceeding the maximum “number of cases per teacher” (i.e., caseload, not class size) (NAC 388.150.7). The previous term was “enrollments” which led to confusion and frequent need for NDE to provide clarification that it could approve an increase in caseload, but not class size.
- Hearing Officer Qualifications and Request for Recusal: NAC revised to incorporate state law requirements for hearing officer qualifications (NAC 388.310.16) and method to request recusal of hearing officer (NAC 388.310.18).
- Deaf-Blindness: NAC revised to add section for eligibility of pupil with deaf-blindness (NAC 388.427). Previously, deaf-blindness was established if a student met the criteria for hearing impairment and the criteria for visual impairment.
 - The Statements of Eligibility for Visual Impairment and for Hearing Impairment contained a section at the bottom where the Eligibility Team would conclude the student had “Deaf-Blindness” if the student satisfied the eligibility criteria for both of those separate impairments. There was no separate Statement of Eligibility for Deaf-Blindness.
 - NAC revision recognized that less extensive impairments in hearing and vision than those established in the separate eligibility categories, when combined, create a unique disability.
 - Hearing Impairment component in Deaf-Blindness has been lowered to 26 from 92 decibels, and states “the pupil has an average hearing threshold level, at 500, 1,000 and 2,000 Hz of 26 decibels or more” (in the Hearing Impairment category, the decibel level is 92)
 - Added progressive deterioration as a possible criterion (“or the pupil suffers from a progressive deterioration

- of the pupil’s hearing, the probable result of which will be the condition described above”)
- Visual Impairment criteria adds a similar “progressive deterioration” as a possible criterion
 - Deaf-blindness cannot be combined with intellectual disabilities to create eligibility under multiple impairment category
 - It is important to be able to identify students with deaf blindness, rather than having those students subsumed within the multiple impairment category
 - Next Steps
 - 1. Each of the following documents must be reviewed and necessary action take, including posting to NDE website in 508 accessible formats:
 - Special Education Rights of Parents and Children (September 2018) (Review and revise, including to reflect applicable NAC changes and applicable NRS changes)
 - Statements of Eligibility:
 - Visual Impairment (remove reference to deaf-blindness as combination of visual impairment and hearing impairment; draft was prepared but need to finalize)
 - Hearing Impairment (remove reference to deaf-blindness as combination of visual impairment and hearing impairment; draft was prepared but need to finalize)
 - Deaf-Blindness (create new Statement of Eligibility; draft was prepared but need to finalize)
 - Intellectual Disabilities (remove reference to deaf-blindness as a possible concomitant disability, which when combined with intellectual disabilities can result in multiple impairment; draft was prepared but need to finalize)
 - Specific Learning Disabilities (replace reference to “mental retardation” with “an intellectual disability”; replace reference to “emotional disturbance” with “an emotional disturbance”)
 - Emotional Disturbance (replace title of form to state “EMOTIONAL DISTURBANCE”; make conforming changes elsewhere, e.g., SLD)
 - ALL STATEMENT OF ELIGIBILITY will be reviewed to ensure accuracy and consistency.
 - 2. All links to NAC on the NDE website direct users to the current version of the NAC.
 - 3. Other proposed NAC revisions are in development.

II. NDE Projects

The committee received information on projects at the Nevada Department of Education. Discussion ensued:

- SPP/APR report- submitted on February 1, 2022. Submitted to OSEP for review. They can come back and ask for clarification or changes before it is finalized. If there are no questions or changes then it will be finalized and then posted to the NDE website. Found that groups want to continue to meet and be involved in that indicator work.
- ARP/ESSER Funds- The state receives 18 million in Part B money to distribute to districts. 75% have put in applications for those funds, others are still researching what their districts need. Some spending of funds towards additional staffing needs, starting some teacher leader programs for special education, IEP facilitation trainings, tutoring and enhancement programs during the school day or after school, adding after school programs, purchasing of curriculum and enhancements to curriculum especially around social emotional learning, equipment, and devices to support students, training and professional development around inclusive practices and accelerated learning, mental health services to meet the needs of the kids coming back.
- State Personal Development Grant (SPDG)- finishing up the reports on these projects now. Project Achieve in Carson City and our Assess Plan Teach (APT) in Las Vegas. More information to come regarding SPDG at our Spring meeting. Will also be providing more information on OSEP monitoring at the NDE.

III. Nevada Eligibility: Visual Impairment

The committee received information on Nevada Eligibility: Visual Impairment. Discussion ensued:

- Memo from Office of Special Education Programs (OSEP) went out to State Directors of Special Education regarding the Eligibility Determinations for Children Suspected of Having a Visual Impairment Including Blindness under the Individuals with Disabilities Education Act (IDEA).
- Three key purposes to the memo:
 - To ensure broad dissemination of the key points made in a previous letter that went out November 12, 2014.
 - Provide the additional guidance requested on the issues.
 - Share information about outside resources that may be helpful in examining what our state current procedures look like that related to the identification and evaluation of children suspected of having a visual impairment including blindness.
- Further, under 34 CFR §300.8(c)(13), “visual impairment including blindness” means an impairment in vision that, even with correction,

adversely affects a child's educational performance. The term includes both partial sight and blindness.

- State and Local Eligibility Criteria:
 - While States are permitted to establish standards for eligibility for special education and related services and are not required to use the precise definition of a disability term in the IDEA, these State-established standards must not narrow the definitions in the IDEA.
 - In contrast, in the definition of “visual impairment including blindness,” the regulations do not contain a modifier; therefore, any impairment in vision, regardless of significance or severity, must be included in a State's definition, provided that such impairment, even with correction, adversely affects a child's educational performance. States may not use criteria or other definitions for “visual impairment including blindness” that result in the exclusion of children who otherwise meet the definition in 34 CFR §300.8(c)(13).
 - Some States implement a two-step process when addressing whether a child suspected of having a visual impairment may be eligible for special education and related services under the IDEA.
 - First step, the eligibility team is required to reach a decision as to whether the child has one or more of the conditions that the State has identified and believes could affect a child's vision functioning.
 - Second step, the eligibility team determines the extent that it should proceed further and examine whether the condition adversely affects the child's educational performance.
 - However, if the eligibility team were to conclude the child's vision difficulties do not fall within one of the State's listed criteria or conditions, the eligibility team would not consider whether the child's visual functioning adversely affects his or her educational performance. Such a practice is inconsistent with the IDEA.
- Based on the guidance set forth in the memo and OSEP's Letter to Kotler, a State may need to review its criteria and revise those criteria, as appropriate, and make sure that its LEAs are informed of the changes.
- As an example of how a State could revise its criteria, a State could comply with the IDEA requirements by adding a general criterion stating that the definition of “visual impairment including blindness” includes, in addition to other specific State-established criteria, any other impairment in vision that, even with correction, adversely affects a child's educational performance.
- First draft of the regulation changes for Nevada. NDE is trying to change our current Nevada regulations for visual impairment to match what OSEP has asked us to do. Draft Regs are trying to broaden the criteria, so it isn't too narrow.
- SEAC third group of stakeholders for consideration. First two groups were SEDA and Nevada Vision Services Team. Robust group for representation for current expertise in the field. Did a lot of recommendations for what they want

to see included in the regs, they would also be the group to create a guidance document and provide training once the regs are changed. Clear guidance to everyone in the system on changes moving forward. Timeline isn't in our control once in Legislative Council Bureau. What really needs to go into the regs, so they do what OSEP tells us what to do. What goes in the training to support what goes into the regs.

- By the old definition, children who may have fallen through the cracks before will no longer fall between the cracks. Impact numbers by widening the definition and not keeping it so narrow

Motion: Joseph Morgan moved to recommend approval of the presented changes to the NAC related to the visual impairment definition. Jodee Prudente seconded the motion. The vote was called, and the motion carried without objection.

7. SUB-COMMITTEE UPDATES

I. SB203 Update

The committee received an update on current happenings with SB203. Discussion ensued:

- SB203 signed into law in 2019, following the 80th session of the Nevada State Legislature
- Intended to improve services for the Language development for children who are deaf, hard of hearing blind, and visually impaired
- SB203 Advisory Committee
 - Established the committee, appointed a chair and committee members
 - Met Eight Times
 - Adopted final report, December 7, 2020
- Final report provided to SEAC
 - SEAC approved the document, December 9, 2020, to send to the state board of education
- The State Board adopted the criteria
 - Evaluation of the development of language and literacy skills and recommendations, January 29, 2021.
- In progress:
 - Resource document for parents
 - The criteria for use by school employees and providers pursuant to NRS 388.519 shall be prescribed in regulations, to be adopted by the State Board
 - Distribute a summary and provide training regarding criteria to be provided by NDE
 - To be completed upon adoption of regulations by State Board

- In collaboration with Disability Services Division of HHS, compile, and post, on NDE website, aggregate and comparative data concerning language and literacy developmental skills of children under the law vs. non-disabled peers

8. UPDATE OF ACTION ITEMS FROM DECEMBER MEETING

No updates currently

9. FUTURE AGENDA ITEMS

- Behavior and Discipline (departments intention to support school district) – Karen Taycher
- Guidance for students to “Walk” with adjusted diploma – Karen Taycher
- Break down indicator data by disability category
- Legislative Outcomes – Fall
- Use of cameras in classrooms
- Technology for students/kids- Brian Brill
- Local enrollment trajectories over the past 5 years- Joseph Morgan
- Progress on SB203 implementation- Penni Echols
- Update regarding definition of visually impaired- Lisa Hunt review updated changes in August. See what was changed and now what is it statute.
- Explore alternate meeting times-child care stipends, participate more fully, morning meetings- Penni
- SB203 Manual for new members- Anna Marie
- Cameras in the classroom- Anna Marie
- Letter between Penni ESY update- Anna Marie
- Update and policy changes in CCSD regarding discipline and behavior legislation/data- Anna Marie
- APT overview what schools participate/projection and expansion- Anna Marie
- Data under APT intervention, guidance for 1% being tested for National average- Anna Marie
- NV Alt Assessment- guidance of the 6 questions update- Anna Marie
- ENDREW- what is it- Anna Marie

Program Spotlight

- Rural Regional Resource Centers –being part of transition, equity from rural to urban, consistency statewide
- NDALC
- Focus Program – UNLV
- Self-Advocacy Program – Jesse
- Supported Decision Making- Homa Woodrum
- Circle of Friends/Support- Cheryl Catsmark

Special Education Initiatives

- Data on inclusion of young students with disabilities

IDEA Spotlight – Legal Requirements/Evidence Based Practice

- Linkage to IEP
- Case Law
- MOE
- Transition
- Behavioral entitlements of students with disabilities, risk assessment
- Suspension/Expulsion
- Implications of ENDREW

10. PUBLIC COMMENT #2

None currently

11. ADJOURNMENT

The next regular SEAC meeting is April 27, 2022.
NEW LOCATION: Zoom Meeting Platform