

M.O.R.E.

Special Education Select Working Group

MEETING MINUTES

Thursday, January 9, 2014

10:00 A.M. IN LOB ROOM 1D

The meeting was called to order by Representative Becker (Co-Chair) at 10:03 A.M.

The following select working group members were present: Rep. Michelle Cook (Working Group Co-Chair), Rep. Brian Becker (Working Group Co-Chair), Rep. Terrie Wood (Working Group Co-Chair), Deborah Wheeler, John Filchak, Jody Harkins, Patrice McCarthy, Kimberley Planas, George Rafael, Mike Regan, Rep. Catherine Abercrombie, Rep. Jay Case, Rep. Michael D'Agostino, Rep. Mary Fritz, Rep. Jonathan Steinberg, Deborah Richards, Robert Namnoum

Rep. Becker (Co-Chair), Rep. Cook (Co-Chair), and Rep. Wood (Co-Chair) welcomed everyone to the meeting

Rep. Cook (Co-Chair) made clear that emails received by the Co-Chairs from members of the public were being read and addressed by working group members.

Rep. Becker asked for a motion to approve the minutes from the last meeting.

Rep. Cook made a motion to approve the minutes, Rep. Wood seconded the motion, and the motion was approved unanimously by the members present.

Rep. Becker introduced Charlene Russell-Tucker, Chief Operating Officer for the State Department of Education (SDE), as the first speaker of the day.

Ms. Russell-Tucker thanked the select working group for inviting SDE to speak and stated that the purpose of today's presentation was to ensure that all group members had a baseline understanding of special education services provided in Connecticut. She also introduced Maria Synodi and Attorney Gail Mangs, both education consultants for the State Department of Education's Bureau of Special Education, and stated that Ms. Synodi would take the lead in presenting information to the working group today.

Ms. Synodi thanked the working group for inviting SDE to present, stated that Attorney Mangs would be present to address any due process questions, and proceeded to give a presentation about the delivery of special education services

in Connecticut. The slides Ms. Synodi used and a full video of the entire meeting are available on the M.O.R.E. Commission Special Education Select Working Group website at <http://www.housedems.ct.gov/MORE/SPED/meetings.asp> .

Rep. Cook (Co-Chair) invited group members to ask questions of the presenters.

Rep. Abercrombie asked when disabled children transition from the birth to three system to the special education system (do they transfer on their third birthday or are they able to finish the school year in the birth to three program).

Ms. Synodi answered that children must transition by their third birthday, so notice is given to districts ahead of time to ensure a smooth transition. She further stated that there must be a transition planning conference which informs the IEP at least six months before the transition takes place, so an IEP is in place by the time the child reaches age three.

Rep. Abercrombie asked what happens to children who turn three during the summertime, since the birth to three program is year-round.

Ms. Synodi answered that school districts must still hold a transition meeting in advance of the child's third birthday, during which it is determined whether the child is eligible for special education, and, if so, if year-round services (extended school year services or ESY) are needed. If extended school year services are not needed, then the student's IEP is implemented when school starts. 75%-80% of children leaving the birth to three system at age three receive special education services.

Rep. Case asked if there was any evaluation done of special education students who were mainstreamed without a paraprofessional accompanying them in the classroom. He also asked if there were not enough paraprofessionals in classrooms because of funding issues or if there was some other reason.

Ms. Synodi answered that the first step when concerns arise about whether or not a child is receiving an appropriate education is to go back to the PPT, where what is working and what is not can be reviewed and the IEP can be revised. If the PPT does not decide to make a change in the IEP and there is still disagreement, parents can turn to the due process system for a solution.

Rep. Case asked what happens if it is not the parents of special education students who are complaining, but the parents of other students because the special education students are either being disruptive or demanding a disproportionate amount of the teacher's time. He also questioned whether a deficiency in the number of paraprofessionals in the classroom is partly to blame for this issue.

Attorney Mangs stated that the IEP must be implemented so that all services included in the IEP are being provided to the student. She said if there is a problem, it is referred back to the PPT. If the PPT decides a paraprofessional is needed, one must be provided. If there is disagreement between the student's parents and the PPT decision, the parents may address the situation in the due process system.

Rep. Case stated that the numbers of due process cases and complaints seemed small, given that he was aware of at least four that had come from his legislative district. He then asked if parents of special education children were not coming forward because they were unfamiliar with the process. He also asked if parents of special education children were educated about their children aging out of the special education system and how to effectively manage this transition.

Attorney Mangs stated that mediation requests and complaints have been increasing, while the hearing request numbers (about two hundred annually) have been holding steady in recent years. She said that parents often go through this process on their own and without an attorney. She continued that if the numbers of cases in the due process system are low, schools are doing a good job and most parents are very satisfied with their child's experience in special education. On the aging out issue, she stated that a transition discussion with the PPT is required to take place under IDEA. She said that transition services is an area that is growing and that school districts are getting more mediation requests involving this issue.

Rep. Steinberg thanked SDE for their presentation. He then asked if the annual report required for compliance and filed with the federal government was available for review by the public.

Ms. Synodi answered yes both the state performance plan and the annual performance report are available on the SDE website. The most recent report for the 2012-13 school year is being prepared now, will be submitted to the federal government in February of 2014, and a report back from the federal government on how well the state is performing is usually received by May or June.

Rep. Steinberg asked if old reports or metrics were available as well.

Ms. Synodi answered that the most recent annual performance report and state performance plan contain some progress measures based on data from previous years.

Rep. Steinberg stated that litigation surrounding special education services is a significant expense to towns and parents. He commented that he is pleased in the growth of the mediation program. He then asked if there were any other ways to help parents with the cost of filing special education complaints.

Attorney Mangs answered that most complaints are brought by parents without attorneys. She stated that agencies are available to assist with legal services and that CPAC and SDE both have lists of free and low cost legal assistance groups. She continued that there might not be enough free and low cost legal services providers, but some avenues for this type of assistance do exist.

Ms. McCarthy asked, in the context of private programs where students are educated outside of their home district, what do non-SDE approved programs consist of and how are children admitted to those programs.

Ms. Synodi asked if Ms. McCarthy's question referred to children receiving IEP services at non-SDE approved schools. She then said that she did not have enough information to answer that question at the moment, but that there is an SDE staff person who is assigned to this policy issue who can provide additional information.

Ms. McCarthy asked if SDE could please provide the working group with that information.

Ms. Synodi asked if the question Ms. McCarthy would like answered was " what are non-approved private special education programs and how do children get into these programs?"

Ms. McCarthy answered yes.

Rep. Cook asked Ms. Synodi if she would please get the working group the name of the relevant SDE staff person so the group could follow-up.

Mr. Regan asked what percentage of IDEA Part B grant money received by the state is actually distributed to local districts.

Ms. Synodi answered that roughly seventy five percent of IDEA Part B funds received by the state are required by law to be passed through to local districts. She said that SDE tries to send an even greater percentage through and that more detail on this will likely be available during the working group's next meeting, which will focus on special education funding.

Mr. Regan asked what percentage decrease in funding towns had seen because of the federal sequester.

Ms. Synodi answered that she will make sure this information is available to the working group for the next meeting.

Mr. Regan asked what the factors were behind the decrease in state excess cost grant allocations to towns.

Ms. Russell-Tucker stated that this information would be covered during the work group's next meeting on special education funding.

Mr. Regan stated that school districts are concerned about trying to serve two masters with regard to special education: SDE and the new Office of Early Childhood. He asked to whom towns should write 619 grants and who supervises those grant programs. Additionally, he asked if there would be a gradual reduction in funds available for this purpose after this administrative reorganization.

Ms. Russell-Tucker stated that these were excellent questions. She said that SDE was engaged in a dialogue with the Office of Early Childhood to figure out who will cover which services. She continued that SDE was working to ensure that any transition will be effective and that towns will not have to serve two masters. She added that the 619 grant supervision staff will likely stay in SDE.

Rep. Cook stated that services will move from SDE to the Office of Early Childhood each year in a staggered fashion in order to avoid mistakes and a rocky transition.

Rep. D'Agostino stated that he would like to join the request made earlier for information on private special education providers. He also thanked SDE representatives for appearing before the working group. He then asked, with regard to the hearing process, how confident SDE was that the complete number of hearings requested was accurately reported to SDE, given that hearing requests may be made to either SDE or to individual districts. He added that, anecdotally, it seems that there might be more hearing requests annually statewide than the 203 SDE is reporting.

Attorney Mangs answered that she is confident that 203 is the number of hearing requests reported to the federal government. She stated that it is highly unlikely that there were hearings that were not being reported to SDE because SDE is responsible for appointing hearing officers.

Rep. D'Agostino asked how many towns drop the hearing request before notifying SDE because they decide internally that it isn't worth the trouble.

Attorney Mangs answered that she was not aware of those types of situations occurring and that she could not comment on information if it is not reported to SDE.

Rep. D'Agostino asked if the party requesting a hearing (often the parents of special education children) always had the burden of production.

Attorney Mangs answered affirmatively.

Rep. D'Agostino stated that the "burden of proof" issue that is often raised with regard to special education refers to the burden on the school district to prove the adequacy of a student's educational program (this burden of proof is embedded in state regulations). He asked if, since this burden of proof is embedded in state regulations that originated from SDE, the department had reviewed the burden of proof regulation since the year 2000.

Attorney Mangs answered that this regulation is currently being reviewed by SDE, in consultation with special education parents and attorneys.

Ms. Russell-Tucker stated that the State Board of Education did not vote to change the burden of proof in the SDE regulations during the last round of review in 2000, but the Board did charge SDE to go back and review the regulation and that conversation is still happening.

Rep. D'Agostino asked if the SDE officials present would agree that the special education landscape at the local level has changed dramatically in terms of the depth of services provided and the depth of support and legal assistance available to parents over the last fifteen to twenty years.

Ms. Synodi answered that she was not sure that the change could be characterized as dramatic.

Rep. D'Agostino asked how many districts had the capability to handle legal issues in-house in 2000 and how many have that ability now.

Ms. Synodi answered that she was not sure.

Rep. D'Agostino said that he would like to see this information and stated that he was sure that the number of districts with in-house legal capabilities had increased significantly. He then asked if SDE planned to present on the burden of proof issue to the State Board of Education soon.

Ms. Russell-Tucker stated that she could not comment on that, but said she could get the working group some additional information on the burden of proof (public act 11-9 directed SDE to create a report on the burden of proof). She asked the working group members to "stay tuned" to hear any possible additional developments on this issue.

Superintendent Wheeler stated that she is currently a superintendent but that she also has a long history as a special education director. She further stated that there is a large number of districts going out of their way to avoid the due process system because it is a huge burden on staff and resources. She said that the unasked question is how much money is spent on services that districts do not think are necessary for students but that they provide anyway because

they want to avoid legal costs when the burden of proof is on them? She knows first-hand of districts that do this. Her main point was that the money spent by school districts to avoid litigation could be better spent supporting students in the classroom.

Rep. Wood thanked SDE for a great presentation and then asked if people with the title “consultant” were actually SDE employees.

Ms. Synodi answered that “consultant” was just a job classification and that people with that designation were state employees.

Rep. Wood asked if SDE employed attorneys.

Attorney Mangs answered affirmatively and said that she was one.

Rep. Wood asked, on page eighteen of the SDE report to the working group today, in which category children with speech and language impairments were classified by SDE.

Ms. Synodi answered that they were likely placed in the “specific learning disability” category.

Rep. Wood asked if the previous answer was probably correct or definitely correct.

Ms. Synodi answered that SDE classifies children based on their largest disability issue, but children can have disabilities that touch multiple categories.

Rep. Wood asked where students with executive function disabilities were classified within the SDE scheme.

Attorney Mangs answered that it depends on how a student’s disability manifests itself in school. She said that students are classified based on their primary disability, but that students receive services that address all of their disabilities.

Rep. Wood stated that the reason this working group was formed was to look at potentially regionalizing some services, where appropriate, so she wanted to know if any groups in particular stood out. She then asked, with regard to the statistics on page seventeen of SDE’s report to the working group, how does SDE account for students age eighteen to twenty one if they have graduated grade twelve already?

Ms. Synodi answered that the term “K-12” covers people who are up to age twenty one even after they have completed grade twelve.

Rep. Cook stated that a few years ago she was part of an IEP task force that legislated that more specific classifications, such as “dyslexia,” were needed in SDE statistics. She asked, since the task force recommended these classification changes over two years ago, why SDE was still using the old broader classifications.

Attorney Mangs answered that SDE must use federal classifications laid out in IDEA. She said that dyslexia is not one of these broad categories but is a specific learning disability.

Rep. Cook asked if SDE not using more specific categories was in violation of state law.

Attorney Mangs answered that she did not believe SDE was in violation of state law but that she would check the recent changes made by the legislature.

Rep. Cook stated that specificity in data collection is needed. She said that many students do not have individual paraprofessionals with them in class, so specific classifications help educators who must deal with multiple students who have multiple disabilities in the same classroom.

Ms. Synodi answered that SDE could examine the legislation referenced by Rep. Cook. She then stated that IDEA requires annual reports to the federal government to be completed using specified broad categories, so SDE will have to continue to use these broad categories to collect data for that purpose.

Ms. Russell-Tucker stated that SDE would go back and examine the relevant legislation.

Rep. Cook stated that legislators try to make positive changes, so they need to make sure the changes they make are actually happening. She then asked if some districts have IEPs for talented and gifted students, and, if so, how that process works.

Attorney Mangs answered that there is currently a state requirement that students be identified as gifted and talented but that there is no requirement that school districts provide special services to these students and there is no state funding tied to gifted and talented services.

Rep. Cook asked if it would be a misallocation of funds for a school district to use special education dollars to fund talented and gifted programs.

Attorney Mangs answered that funding experts would be the best people to answer that question.

Rep. Cook stated that some states have regional special education districts where students spend part of their academic day while spending the rest of their time in a regular school district. She then asked if there was a reason why Connecticut did not do this but other states used this system.

Ms. Synodi answered that other states just organize their special education systems differently depending on their resources and geography.

Rep. Cook asked if it would be feasible to institute that type of a regional special education district in Connecticut.

Ms. Synodi answered that she was not sure how to answer that question.

Attorney Mangs said that New York State has these intermediate special education units, but they do a job comparable to our RESCs. She continued that a completely separate school district created for special education students would not likely be in compliance with federal law.

Rep. Cook stated that other states do have this type of regional district and the working group needs to explore ways to effectively regionalize services without sacrificing services.

Rep. Becker asked if SDE could expand on what was involved with transition planning.

Attorney Mangs answered that SDE has a consultant named Patricia Anderson who is an expert in transition services and recommended that she addresses this issue for the working group at a future date.

Rep. Becker recounted how Rep. Case asked earlier if teachers spending large amounts of time with special needs students negatively affects non-special education students because no paraprofessional is available to take on some of this responsibility. He then asked if SDE could better answer this question.

Attorney Mangs answered that a PPT may be called by anyone in the school, not just the parents of special education children. She continued that if a student is disruptive or is not making progress a PPT must be convened. She said that a functional behavior assessment to determine the purpose of the behavior should be undertaken by the school district with the goal of developing a behavior intervention plan.

Rep. Becker asked what if the issue isn't the behavior of a student, but the fact that the teacher is spending thirty percent of his or her time with one student. In that case, is it the teacher's responsibility to notify the school administration that a PPT is needed to address the situation? He also asked, since all teachers need some training to help them identify and work with special education

students, what training and certification is required to become a full time special education teacher. He then asked how SDE ensures that all regular classroom teachers have appropriate training to instruct mainstreamed special education children.

Ms. Synodi answered that the Bureau of Educator Standards and Certification works with higher education institutions to certify teachers appropriately. She also said that a blended certificate exists, requiring classroom work with special education children.

Rep. Becker asked how many special education courses a regular classroom teacher needs to take during their training versus how many special education courses a special education teacher is required to take.

Ms. Synodi answered that she was not sure.

Rep. Becker asked SDE to please report back to the working group with an answer to the previous question. He then asked, since it sounds like we ask more and more of classroom teachers each year, if we should be recruiting more teachers.

Ms. Russell-Tucker replied that SDE would research this question and provide an answer back to the working group.

Rep. Becker asked what the difference was between SDE approved and non-approved private special education providers. He further asked what the standards for approved schools meant if students are still being sent to non-approved schools. Finally, he asked if private special education providers were ever audited.

Ms. Synodi replied that SDE has an expert on private special education providers who would better be able to answer those questions. She said that she will get that expert's name and contact information to the working group.

Ms. Russell-Tucker stated that the expert's name was Colleen Hayles and that she worked in the Bureau of Special Education.

Rep. Becker thanked the SDE presenters and asked them to please follow-up on the items they stated they would provide experts or further information to address.

Mr. Namnoum asked if the statistical information on expenditures from page twenty of SDE's report to the working group was accurate for the current year.

Ms. Synodi answered that the data in the report is from the 2012-2013 school year.

Mr. Namnoum asked if the working group could get information on the break-down of expenditures (similar to page twenty of the SDE report to the working group) and enrollment (similar to page twenty two of the SDE report) going back five years. He would like to see how these figures interact with each other and if, as enrollment has increased, funding increased as well.

Ms. Synodi answered affirmatively.

Mr. Filchak asked if SDE could provide a break-down of the information contained on page eighteen of the SDE report to show percentages for the number of special education students placed in-house versus those placed outside their home district.

Ms. Synodi answered affirmatively.

Mr. Filchak asked how SDE would structurally change the current special education system if they had the authority to make any adjustment to improve efficiency and delivery of services.

Attorney Mangs answered that Mr. Filchak's question was one for the legislature. She then continued that Connecticut generally does a good job with special education. She said that the most prominent structural barriers may be the number of small school districts, but that it was ultimately up to the legislature to determine if this is a problem that should be addressed.

Ms. Planas stated that one possible future topic of discussion for the working group is nexus determination and what districts are responsible for with students who are actually attending classes outside the district. She asked if SDE had noted any comments on this issue from school districts concerning an increase in local costs in the wake of the education stability act.

Ms. Synodi answered that she had not heard of any significant differences in the frequency of calls from school districts since the education stability act went into effect.

Ms. Planas asked if SDE was monitoring costs related to students who are attending classes outside of their home district other than the excess cost grants.

Attorney Mangs answered that SDE does not currently collect data on that subject.

Rep. Becker stated that the working group's next meeting would be held on January 23rd and would focus on special education funding, so some questions that were asked but not today may be answered at that time.

Rep. Cook asked who was responsible for auditing IEPs, how often were audits undertaken, and what happened if a school district was found to be out of compliance with an IEP.

Attorney Mangs answered that SDE's data department collected information on certain topics in IEPs (such as whether the IEP is held in a timely manner), and that IEPs were also looked at as part of SDE's focus monitoring projects and general supervision. She continued that the data people in SDE recently brought in six hundred and twenty five IEPs and SDE staff examined them in areas the data indicated compliance was a problem. She also said that SDE does not monitor every IEP in the state for every area of compliance.

Rep. Case asked why, if parents are allowed to charge the school district for mileage if they transport their own child to an out of district school, parents receive 1099 tax forms on this money.

Ms. Synodi answered that she was unsure and that this is a question for a tax expert.

Ms. Russell-Tucker stated that she would make sure that the working group received this information for their next meeting on fiscal issues in special education.

Rep. Wood stated that she had two corrections in the minutes for the previous meeting. She wanted to insert the words "talented and gifted" and correct the spelling of Susan Baum's name in her comments from that day.

Rep. Becker reminded members that the next working group meeting would be on January 23rd at 10:00 AM on the subject of special education funding. He then adjourned the meeting at 12:11 PM.