



IDEA Advisory Meeting

MINUTES

DECEMBER 14, 2023

9:00 AM – 1:58 P.M.

VIRTUAL MEETING

MEETING CALLED BY	Mary McCarvel-O'Connor
TYPE OF MEETING	IDEA Advisory Meeting
FACILITATOR	Mary McCarvel-O'Connor
NOTE TAKER	Michelle Souther
ATTENDEES	Mary McCarvel-O'Connor, Michelle Souther, Tina Degree, Chris Larson, Debbi Poitra, Colette Fleck, Katy Barnum, Dr. Patti Mahar, Nicole Reybok, Dean Sturn, Lucy Fredericks, Brenda Ruehl, Rachel Tabler, Lea Kugel, Alyssa Kramer, Angela McSweyn, Kayla Stastny, Allison Miller, Janakate Walker, Jen Withers

Agenda topics

UPDATE OF WEBSITE AND BROCHURE COMMITTEE

DR. PATTI MAHAR

DISCUSSION	Chris, Brenda, Jodi, Patti, and Michelle will meet on January 9 th at 2:30 p.m.
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DISCUSSION ON STIPENDS FOR COMMITTEE MEMBERS

MARY MCCARVEL-O'CONNOR

DISCUSSION	Mary will give parents and consumers who are not being paid by their employer a stipend to attend the IDEA Advisory Meetings. The committee thought this was a good idea. Brenda Ruehl asked that Mary send the stipend language out so they could share it at P&A.
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DISPUTE RESOLUTION TRAINING

LEA KUGEL

DISCUSSION	<p>Brooke Say - presented at the Tri-State Law Conference in the past. In her school practice, she has developed expertise in advising school districts in special education, gifted, discipline, and civil rights matters. She counsels her clients through internal compliance audits and defends them in administrative hearings and federal litigation. She represents school districts before various administrative bodies. In recent years, she has served as an expert witness in various special education matters, including counsel fee petitions. November 30, 2023. Attendees included members from the Office of Specially Designed Services, Protection and Advocacy, and Pathfinders of ND.</p> <p>Federal Regulatory Scheme for Dispute Resolution - The Individuals with Disabilities Education Act ("IDEA") and its implementing regulations, Part B, provide specific options for resolving disputes between parents and public agencies, which can be used to improve educational results and achieve better outcomes for children with disabilities.</p> <p>Most Commonly Disputed Areas:</p> <ul style="list-style-type: none"> • Non-compliance with the agreed-upon IEP • Disagreement over the content of the IEP (services)/what is required for FAPE • Disagreement over where the IEP is implemented (placement) • Allegations of discrimination • Disagreement over evaluations, eligibility, and independent educational evaluations (IEEs) <p>ND State Law:</p> <ul style="list-style-type: none"> • ND Admin. Code 67-23-05-01: Dispute resolution options under part B of IDEA • ND Admin. Code 67-23-05-03: Facilitated IEP meeting • ND Admin. Code 67-23-05-02: Due process hearing under Part B of IDEA • Federal Law: 300.506 Mediation <p>ND offers four options that parents and districts can seek when trying to resolve disagreements. The least intrusive is facilitation and mediation, which are depicted on the left. With facilitation and mediation, the parties work together with a professional facilitator or mediator to decide what the outcomes should be. Because the parties work together to find an outcome, they have more control over</p>
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these dispute resolution options. Facilitation and mediation are the less formal of the four dispute options and cost less than when we move to the right side of the chart. As we move into the state complaint investigation, the parties lose the control they have with facilitation and mediation because they are agreeing to turn the case over to a state complaint investigator or an administrative law judge (ALJ). The outcomes of the hearing are decided by a person that the parties may not know. More costs may be involved, especially when the parties bring in attorneys to help state their case. The proceedings are very formal, especially in the due process hearing, which is very similar to a regular trial hearing in front of a judge.

ND Dispute Resolution Comparison Chart - [Microsoft Word - SpEdStComplaintResolutionSystem changes March 2019 \(nd.gov\)](#)

Facilitated IEP Meeting

- IEP facilitation is a voluntary process that can be requested by either the parent or the school district and may be utilized when both parties agree that the presence of a neutral third party would assist in the development of an appropriate IEP for a student with a disability.
- If one party does not want a Facilitator, NDDPI will not provide one. It is an entirely voluntary process.
- A facilitated IEP meeting is an IEP meeting that includes an impartial facilitator who helps facilitate effective communication between the members of the IEP Team as they develop an acceptable IEP. IEP facilitation is not used to resolve disputes unrelated to the IEP.
- A facilitated IEP meeting is only available when the IEP team has already met for an initial meeting.

Mediation

- Mediation is an impartial and voluntary process that brings together parties that have a dispute concerning any matter arising under 34 CFR part 300 to have confidential discussions with a qualified and impartial individual.
- The goal of mediation is for the parties to resolve the dispute and execute a legally binding written agreement reflecting that resolution.
- Mediation can be requested at any stage of a disagreement, even if the issue is the subject of a pending special education complaint investigation or due process hearing.
- Mediation may not be used to deny or delay a parent's right to a hearing on the parent's due process complaint or to deny any other rights afforded under Part B. 34 CFR §300.506(b)(1) and (8). Page 9

State Complaint Investigation

- A Special Education State Complaint is a form or letter written to the NDDPI to report that a public agency (such as a school district) has not followed the requirements of the IDEA for an individual student.
- The party alleges that a school district or public agency has violated IDEA, and the party requests an investigation. A state systemic complaint may include issues that affect a group of students system-wide.
- The state then appoints an Investigator to look into the complaint and a determination is made from the information gathered. If there is a violation on the school's part, a corrective action plan will be created to rectify the situation.
- The NDDPI does not handle Civil Rights complaints or violations related to discrimination. The Office for Civil Rights (OCR) of the U.S. Department of Education enforces several Federal Civil Rights Laws prohibiting discrimination in programs or activities that receive federal financial assistance.

Due Process Complaint and Hearing

- A due process complaint is a written document used to request a due process hearing related to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE. The complaint may be filed by a parent or public agency (such as the school district). This starts a process that may lead to a formal hearing where a hearing officer decides the outcome.
- A Due Process Hearing is a hearing regarding any matter involving the student's identification, evaluation, or educational placement or the provision of FAPE.
- An administrative law judge from the office of administrative hearings shall conduct the due process hearing."

Patti said parents can request due process at any time during this process.

Brenda Ruehl explained what P&A's role is. P&A will get involved if the issue is LRE and FAPE – state complaints they can do at the advocate level. Due Process – we will work with the parents and try to get the parents to the table. The state complaint is a one-year lookback, and the due process is two years back. We want to resolve this at the lowest level. P&A will also provide technical assistance if the parent can make their own state complaint. Children stay put during due process, which can take 1 to 2 years.

DISCUSSION	<p>North Dakota's results look really good, except... OSEP provided this feedback to NDDPI's APR, which was submitted in February 2023.</p> <p>"The State's chosen methodology results in a threshold for measuring significant discrepancy in the rate of long-term suspensions and expulsions of children with IEPs that falls above the median of thresholds used by all States."</p> <p>Based on preliminary 2022-2023 data:</p> <ul style="list-style-type: none"> • State rate for suspending students with disabilities was .43% • New method is to review districts at three times the state rate (3 x .43% = 1.29%) • Any district with a rate above 1.29% would be reviewed • This year, 5 districts would be reviewed for 4a and 8 districts would be reviewed for 4b <p>Several districts reporting no suspension/expulsions of 10 days or more will be selected and reviewed. This will hopefully allow us to learn:</p> <ul style="list-style-type: none"> • What policy, procedures and supports are in place that is working to support students in those districts • Or if there are issues or errors in data reporting that may have gone unnoticed prior <p>Manifestation Determination Review (MDR)</p> <ul style="list-style-type: none"> • A process to review the behavior of a student with a disability and determine if it was caused by the disability or IEP implementation errors. - IDEA 300.530(e) • 17-18 – 87 MDRs • 18-19 – 92 MDRs • 21-22 – 180 MDRs • 22-23 – 247 MDRs • An MDR may be held because the team sees a pattern in behavior and removals. • *Caution: MDRs may be completed before a child is suspended for ten days <p>We are looking at getting the special education directors access to this data because, right now, they don't know what schools are doing until they get the data. Each school has its own policy and procedures. Brenda said that some districts have a high rate of suspensions and expulsions, especially since COVID. Parents are told that they need to go virtual or homebound; otherwise, the student is going to be expelled. It is creating an issue in the community because parents need to work, and they can't stay home with the child to monitor what the student is doing during the day, and that causes issues. Parents are losing their jobs. Often, a special education director doesn't even know that suspension and expulsion are happening to a special education student. High school kids will just quit when expelled, which doesn't help our dropout rates. Chris said we don't want our kids missing out on educational experiences. Virtual isn't an option for everybody. The more we can do to keep our kids in school and not escalate it to expulsion, the better. We also don't want unsafe schools, but if we can get to the table and discuss some options. Nicole agrees that she is sometimes the last person to know that a student is being expelled. She has found that principals are seeing more physical aggression toward staff, and they are drawing a line and saying the student will be expelled due to the safety of staff and other students. The rural communities are hard because they have no other school to go to. Katy said kids are sent home a lot before expulsion because the school will call the parents to go and pick up the kids. The student is actually out of school a lot before being expelled. Mary explained that it was actually a suspension. Parents don't know what they should be asking. Brenda said she tells parents they should ask the school if their child is being suspended. If so, she recommends that the parent send the school an email documenting that the school asked the parent to come pick up the student.</p> <p>Questions and Answers: Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions. July 19, 2022 (PDF)</p>
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EARLY CHILDHOOD UPDATE

ANGELA MCSWEYN

DISCUSSION	<p>Early Childhood and Pyramid Model Updates</p> <ul style="list-style-type: none"> • Increase in special education referrals • Evaluation teams are impacted • Space, funding, and recognition • Administration and community support • Autism diagnosis is on the rise • Intense needs of children and families is growing <p>What do ND families and educators want?</p> <ul style="list-style-type: none"> • The same school experiences as their peers without disabilities • Services and Inclusion
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- Inclusive child care

Preschool development grant – a statewide needs assessment survey was sent to parents.

Pyramid Model – A framework of evidence-based practices for promoting young children’s healthy social and emotional development.

Who uses the pyramid model?

- Early childhood special education personnel
- Early intervention personnel
- Early educators
- Families
- other professionals

Components of the pyramid model:

- Comprehensive Supports
- State Leadership Team
- Benchmarks of Quality
- Training Modules
- Coaching
- Family Engagement
- Fidelity & Data Tools
- Trauma – Informed Care & Other Topics

What is the state of the state?

- Programs have some access to training modules
- Part C, early intervention ages birth to 3
- Part B, ages 3-5
- Head Start – Mayville (reporting behavior incidence decreased from 1,000 to 350)
- Some family agencies – Pathfinders Services

Next Steps:

- Train internal staff and partners
- Examine the impact of implementing to fidelity and the possibility and cost analysis of coaching
- Creating a scale-up and sustainability plan
- Share the impact with communities

[National Center for Pyramid Model Innovations \(challengingbehavior.org\)](http://challengingbehavior.org)

EDUCATIONAL HUB

ALLISON MILLER

[ND Educational Hub](#)

DISCUSSION

This website is used to create content for parents, administrators, and teachers. The map shows the different REAs throughout the state. You create an account login in, and access the different courses. You will see different tiles that offer different training. If you are interested in special education, select Statewide PD and Training/North Dakota DPI/ Specially Designed Services (SPED). It will list all the courses available and how much time you would earn towards a credit. You would select the course you are interested in and choose enroll me. You will see the course syllabus regarding the course. You must complete all the tasks to receive the credit. There are some accessible notes available for some of the courses. There is a credit verification form if you are taking it for credit. You will receive a course completion certificate once you have completed all the required tasks. Some of the courses are live events and teachers prefer that since they can ask questions in the moment. A course catalog is available that lays out the different content by office. The dyslexia content is under the Literacy in ND tab, not Specially Designed Services. We are trying to get people to understand that just because a student has dyslexia doesn’t mean the student is on an IEP. Patti thought this would be a good resource to share with students going into special education. There is now a button to submit a course/content request form if there is a course you would like to take but can’t find on the hub. There is also an interest in creating a content form you can submit if you want to create content for the hub. Specially Designed Services uses the hub to get information/training out to teachers and administrators regarding suspension/expulsion. Science of Reading is under the Literacy of ND tab. We have five courses on TBI and one on behavior being added in January 2024. Nicole Reybok highly recommends the UDL course on the hub for students.

DISCUSSION

Mandy is the primary contact for Medicaid questions. Does anyone have any specific questions? Consent for Medicaid – is required yearly. Is the new guidance is that still the same? There was concerned voiced that parents wouldn't have the option to give consent every year. It has been said that it won't pull from the same funding bucket, but parents are concerned that it will. Parents like to have the option of giving consent yearly. The requirement is from IDEA and not a Medicaid office requirement. When someone enrolls in Medicaid, you are giving Medicaid consent to bill for services. IDEA services are separate, and she can't respond to that. The Dept of Education put out a proposed rule in August but she isn't sure if that has been finalized. It is not a Medicaid requirement. FERPA also requires a consent. Nicole asked if there is an FAQ document available for parents from Medicaid. She feels if the information came from the Medicaid office that it would make parents more at ease. The Medicaid office recently hired Jen Shephard as an engagement coordinator.

How familiar is everyone with School-Based Medicaid?

- Medicaid is a health care coverage program. It is jointly funded by state and federal governments.
- Medicaid provides support for healthcare services delivered in schools and helps schools reduce health care related costs.

Who do we serve?

Low-income families, children, pregnant women, people with disabilities, older adults, and other low-income adults. The majority are children.

Medicaid/education partnership

- School Medicaid education and resources written in meaningful language
- Policy with enough detail to provide structure and clarity
- Using the feedback loop to do these

Thirteen special education units are billing Medicaid. Eighteen currently are not.

Reimbursement over 3 million dollars.

Medicaid Match

Medicaid is a combination of federal and state funding.

Schools keep the federal funding for IEP/IFSP services and pay the state share of funding which is called the Medicaid Match.

Federal funding rate percentages change annually. ND's rate of 53.82% will be reduced to 50.97% starting October 1, 2024.

Schools are not required to pay the state matching dollars when services fall outside IEPs/IFSPs under IDEA.

Another benefit of billing ND Medicaid:

Eligibility to apply for Behavioral Health School grant funding. Allows schools to recoup "match" costs.

- 1 in 3* ND children Medicaid-eligible (*numbers are changing with Medicaid renewals)
- IEP, non-IEP (including 504 Plans), and 1915(i) services can be billed
- State match applies to IEP services
- State match does not apply to non-IEP services OR 1915(i) Services
- Schools can employ or contract with providers

What kind of services are provided by or through schools:

- Speech/Language Pathology
- OT
- PT
- ABA

What is the 1915(i) – services

- Peer Support
- Care Coordination
- Respite
- Supported Employment
- Supported Education

- Family Peer Support
- Community Transition Service
- Housing Support
- Benefits Planning
- Non-Medical Transportation

Individual Eligibility Criteria:

- Ages 0+
- Enrolled in Medicaid or Medicaid Expansion
- Household income at or below 150% of the Federal Poverty Level
- Qualifying Behavioral Health Diagnosis
- WHODAS 2.0 Assessment score of 25 or higher
- Meet requirements of Home and Community-Based Settings Rule

Services Requirements:

- Students must be Medicaid eligible on the date of service
- Services providers must be Enrolled with ND Medicaid and
 - Employed by the school, or contracted through the school
- Qualified/licensed to provide services within the scope of their practice
- Services must be:
 - Covered under the ND State Medicaid Plan
 - Medically necessary
 - Provided directly to the student
 - Medical, not educational or instructional
 - Billed under separate NPI numbers for IEP/IFSP non-IEP/IFSP, and 1915(i) services

<https://www.hhs.nd.gov/human-services/medicaid/StayCoveredND>

<https://www.govinfo.gov/content/pkg/FR-2023-05-18/pdf/2023-10542.pdf>

A WALK THROUGH THE DATA

ALYSSA KRAMER

Terms and Acronyms to know

- Local Education Agency (LEA) - This describes the school districts within the state of North Dakota. Currently, there are 173 LEAs in ND.
- Individualized Education Program (IEP) - A document that provides a detailed plan for the education of a specific student receiving special education.
- State Performance Plan (SPP) & Annual Performance Report (APR) - Every state agency is required to submit an annual report to the Office of Special Education Programs (OSEP). The SPP/APR is due by February 1st.
- Indicator(s) - The SPP/APR includes 17 separate data collections. Each collection is called an Indicator.

What are the SPP/APR Indicators? One might think that the indicators are listed in chronological order (i.e., an indicator relating to preschool would be near the top, and an indicator relating to graduation would be toward the bottom); however, they are not numbered in chronological order.

DISCUSSION

- Indicator 12 – Early Childhood Transition – Target is 100% and ND met the target
 - Indicator 11 – Child Find – Target is 100% and ND did not meet the target at 98.79%
 - Indicator 6 – Preschool Environments – 6A Target is 17.16% and ND targets was 21.51%. 6B target is 39.79% and ND rates was 40.60%, 6C target is 97% and ND rate was 1.31%.
 - Indicator 7 – Preschool Outcomes
 - Indicator 8 – Parent Involvement – Target is 67.27% and ND rate was 68.26%
 - Indicator 5 – Educational Environments
 - Indicator 9 – Disproportionate Representation – The target is 0 and ND met the target.
 - Indicator 10 – Disproportionate Representation in Specific Disabilities – The target is 0 and ND met the target.
- These categories are
- *Intellectual disability (ID)
 - *Specific learning disability (SLD)
 - *Emotional Disturbance (ED)
 - Speech or language impairments (SLI)
 - *Other health Impairment (OHI)
 - *Autism (AUT)
- Indicator 4 – Suspension/Expulsion – Indicators 4a and 4b – these targets are supposed to be at 0%
 - Indicator 3 – Participation and Proficiency in Reading and Math

	<ul style="list-style-type: none"> Indicator 13 – Secondary Transition – This is a compliance indicator and has to be at 100%. ND is currently at 81.68%. Indicator 1 – Graduation – Target is 70.89% and ND’s target is 76.32% Indicator 2 – Dropout – Target is 25.60% and ND State Target is 18.23% Indicator 17 – SSIP – States can choose which indicator they want to focus on for the SSIP. – 62.74% Indicator 14 – Post School Outcomes – 14a – Target is 21.27% ND Target is 20.43%, 14B Target is 65.14%, ND 60.05%, 14c -target is 82.70% Indicator 15 – Resolution Sessions Indicator 16 – Mediation – we are not required to report this because we have fewer than ten mediations. <p>By Sequencing the indicators in a timeline, it is our hope that it may help..... to show how the indicators are connected to each other, identify areas where the indicators play a critical role during various stages of a child's educational career, and to show that the decisions that parents, teachers, and LEAs make for each child influence the SPP/APR indicators.</p> <p>*It is the data in the SPP/APR that communicate to the federal government North Dakota’s efforts to meet IDEA requirements and, in doing so, can provide leverage to improve outcomes for children with disabilities.</p>
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DISCUSSION

SUGGESTIONS SUMMARY		
Issues and Concerns in our State: No issues.		
ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
<p>We will approve the September minutes in March since we didn’t have enough IDEA Advisory Committee members attending today to approve them.</p> <p>No Committee Member concerns.</p> <p>September 12th was selected as the Joint ICC/IDEA Advisory Meeting which will be hybrid.</p> <p>The meeting adjourned at 1:58 p.m. Nicole Reybok made the motion, and Janakate Walker seconded the motion to adjourn.</p> <p>Public Comment: No Public Comment.</p> <p>The March meeting is scheduled for March 19, 2024. The meeting will be virtual.</p> <p>Agenda Items for the March meeting:</p> <ul style="list-style-type: none"> Approve September Meeting Minutes Discuss the September meeting 		