

# Summary Report

September 12, 2024

## North Dakota IDEA Advisory Committee



Kirsten Baesler, Superintendent of Public Instruction  
Office of Specially Designed Services  
North Dakota Department of Public Instruction  
600 East Boulevard Ave. Dept. 201  
Bismarck, ND 58505-0440  
(701) 328-2277 [dpi.state.nd.us](http://dpi.state.nd.us)



### **North Dakota IDEA Advisory Committee Position Statement on a Unified System of Education**

North Dakota shall have a seamless education system that is responsive to the needs of all children, adolescents, and young adults, and their families. Parents and students must be given the opportunity to participate as full partners in all educational endeavors. We must build the capacity in general education for all children, while supporting each individual student's rights and the gains made since the passage of federal legislation in special education. In such a system, all children reap the benefits of a free appropriate public education through effective, research based, instructional programs and practices based on equitable standards with accountability and high expectations for all.

*Approved by the ND IDEA Advisory Committee on September 21, 2001.*

## **ABOUT THE ADVISORY COMMITTEE**

The purpose of the North Dakota Individuals with Disabilities Education Act (IDEA) Advisory Committee is to provide advice and guidance to the Department of Public Instruction with respect to special education and related services for children and youth with disabilities as required by the Individual with Disabilities Education Act (IDEA). The committee provides a forum for issues regarding potential unmet needs of students with disabilities. The advisory committee members are viewed as key agents in their efforts to improve educational opportunities for children with disabilities in North Dakota. One of the most significant contributions each member brings to the committee is his or her representation of a constituency.

The functions of the North Dakota IDEA Advisory Committee are to:

- Advise the NDDPI of unmet needs within the state in the education of children with disabilities;
- Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
- Advise the NDDPI in developing evaluations and reporting on data to the Secretary of Education under Section 1418 of IDEA 20 U.S.C §1418;
- Advise the NDDPI in developing corrective action plans to address findings identified in federal monitoring reports under Part B of IDEA; and;
- Advise NDDPI in developing and implementing policies relating to the coordination of services for children with disabilities.

## **MEMBERSHIP**

The membership of the advisory committee includes select organizations that are specifically focused on the needs of individuals with disabilities, parents of children with disabilities (ages birth through 26), and individuals with disabilities. Parents of children with disabilities and individuals with disabilities are vital members who represent a majority of the committee. The committee's composition aims to include all major stakeholders who can provide resources and support for individuals with disabilities. Members are appointed by the superintendent for three-year terms beginning in September of each year. Committee members must include individuals who represent the following areas:

- Parents of individuals with disabilities (ages birth through 26)
- Individuals with disabilities
- A teacher
- An administrator of programs for children with disabilities.
- A State or local education official who carry out activities under subtitle B of Title VII of the McKinney-Vento Homeless Assistance Act.
- A representative of an institution of higher education that prepares special education and related services personnel.
- A representative of other State agencies involved in financing or delivery of related services to children with disabilities.
- A representative from a state child welfare agency responsible for foster care.
- A representative of a vocational, community, or business organization concerned with the provision of transition services.
- A representative from a state juvenile and adult corrections agency.
- A representative of private and public charter schools.

**STATE ADVISORY COMMITTEE ON THE EDUCATION OF CHILDREN WITH DISABILITIES**

**2023-2024**

**CHAIR:** Dr. Patti Mahar

**VICE CHAIR:** Christopher Larson

**CONSUMERS (2)**

Jacey Enget (09/01/2023)  
2130 S 12<sup>th</sup> St Apt 307  
Bismarck ND 58504  
Email: [Jacey.a.enget@outlook.com](mailto:Jacey.a.enget@outlook.com)

Christopher Larson (9/1/2025)  
750 Main Street East #78  
Mayville ND 58257  
Email: [Christopher.larson.1@outlook.com](mailto:Christopher.larson.1@outlook.com)

Holden Bouilly (9/1/2025)  
512 13<sup>th</sup> St NW  
Minot ND 58703  
Email: [holdenbouilly@gmail.com](mailto:holdenbouilly@gmail.com)

**PARENTS OF INDIVIDUALS WITH DISABILITIES (5)**

Jessica Howlingwolf (9/1/2025)  
7629 Bia Rd 20, PO Box 312  
Halliday ND 58636  
Email: [jnhowlingwolf@gmail.com](mailto:jnhowlingwolf@gmail.com)

Janakate Walker (9/1/2025)  
Email: [janakate05w@gmail.com](mailto:janakate05w@gmail.com)

Victoria Johnson (9/1/2025)  
3120 25<sup>th</sup> St S Ste 362  
Fargo ND 58103  
Email: [victoriaj895@gmail.com](mailto:victoriaj895@gmail.com)

Katy Barnum (9/1/2026)  
Email: [thisiskaty@hotmail.com](mailto:thisiskaty@hotmail.com)

**STATE AND LOCAL EDUCATION OFFICIALS (3)**

Michael Netzloff, Administrator (9/1/2026)  
ND Department of Career and Technical Education  
State Capitol - 15th Floor  
600 E. Boulevard Ave. Dept. 270  
Bismarck ND 58505  
701-328-3187 (w)  
E-mail: [mnetzloff@nd.gov](mailto:mnetzloff@nd.gov)

Barbara Burghart (9/1/2024)  
Program Administrator  
Division of Vocational Rehabilitation  
1237 W Divide Ave Suite 1B  
Bismarck ND 58501  
Phone: 701-328-8927  
Email: [bburghart@nd.gov](mailto:bburghart@nd.gov)

Jodi Webb, Executive Director (9/1/2025)  
Pathfinders of ND  
1015 S Broadway Ste 42  
Minot ND 58701-4667  
Email: [executive.director@pathfinder-nd.org](mailto:executive.director@pathfinder-nd.org)

**STATE AGENCY REPRESENTATIVES (2)**

Jacqueline Adusumilli (9/1/2025)  
ND Department of Human Services  
Division of Developmental Disabilities  
Developmental Disabilities  
Disability Services Division  
1237 W Divide Ave, Ste 1A  
Bismarck, ND 58501-1208  
E-mail: [jadusumilli@nd.gov](mailto:jadusumilli@nd.gov)

Lucy Fredericks (9/1/2025)  
Department of Public Instruction  
Indian Education  
600 E Blvd Ave, Dept 201  
Bismarck ND 58505-0440  
701-328-1718 (W)  
Email: [lkfredericks@nd.gov](mailto:lkfredericks@nd.gov)

**SPECIAL EDUCATION ADMINISTRATIVE REPRESENTATIVE (2)**

Tracy Klein (09/1/2024)  
Morton Sioux Special Education Unit  
901 Division St NW  
Mandan, ND 58554-1614  
701-751-6500  
E-mail: [msseu@msd1.org](mailto:msseu@msd1.org)

Nicole Reybok (9/1/2026)  
GST Special Education Unit  
PO Box 308  
Portland ND 58274-0308  
701-788-2004  
Email: [Nicole.reybok@k12.nd.us](mailto:Nicole.reybok@k12.nd.us)

**HIGHER EDUCATION REPRESENTATIVE (1)**

Dr. Patti Mahar (9/1/2024)  
Associate Professor/Program Coordinator  
University of North Dakota  
231 Centennial Dr/Stop 7189  
Grand Forks, ND 58202  
Email: [patti.mahar@email.und.edu](mailto:patti.mahar@email.und.edu)

**MEMBERS AT LARGE (1)**  
**CONSUMER/ADVOCATE GROUPS**

Brenda Ruehl, Disabilities Advocate (9/1/2026)  
ND Protection & Advocacy Project  
1351 Page Drive, #303  
Fargo ND 58103  
701-239-7223 (W)  
E-mail: [bruehl@nd.gov](mailto:bruehl@nd.gov)

**EDUCATORS/RELATED SERVICES (2)**

Colette Fleck (9/1/2025)  
Standing Rock Community School  
9189 Hwy 24  
Fort Yates ND 58539  
Phone: 701-854-3461, Ext. 3119  
Email: [Colette.Fleck@k12.nd.us](mailto:Colette.Fleck@k12.nd.us)

**NON-PUBLIC SCHOOLS (1)**

Tina Degree (9/1/2026)  
Dakota Memorial School  
PO Box 5007  
Minot ND 58702-5007  
701-857-4211  
Email: [t.degree@dakotaranch.org](mailto:t.degree@dakotaranch.org)

**STATE JUVENILE AND ADULT CORRECTIONS AGENCIES (1)**

Michelle Pfaff (9/1/2026)  
ND Department of Corrections & Rehabilitation  
3100 Railroad Avenue  
Bismarck, ND 58502  
701-667-1445  
Email [mlpfaff@nd.gov](mailto:mlpfaff@nd.gov)

**BUREAU OF INDIAN AFFAIRS REPRESENTATIVE (1)**

Debbe Poitra (9/1/2025)  
Federal Programs Officer  
Belcourt School District  
PO Box 440  
Belcourt ND 58316  
701-477-6471 ext. 3299  
Email: [debbe.poitra@k12.nd.us](mailto:debbe.poitra@k12.nd.us)

**STATE CHILD WELFARE/FOSTER CARE (1)**

Dean Sturn (9/1/2024)  
North Dakota Department of Human Services  
Children & Family Services  
600 East Boulevard Avenue  
State Capitol Building, Dept. 325  
Bismarck, ND 58505-0250  
Phone: (701) 328-1018  
Fax: (701) 328-3538  
Email: [drsturn@nd.gov](mailto:drsturn@nd.gov)

**STATE/LEA OFFICIAL HOMELESS ASSISTANCE (1)**

Jennifer Withers (9/1/2024)  
Assistant Director  
ND Department of Public Instruction  
Educational Improvement & Support  
600 E Blvd Ave, Dept 201  
Bismarck ND 58505-0440  
Email: [jwithers@nd.gov](mailto:jwithers@nd.gov)

\*Also a parent representative.

## **COLLABORATIVE EFFORTS**

In North Dakota, the lead agency responsible for services for children with disabilities from birth through age 2 (IDEA, Part C) is the Department of Human Services. The lead agency responsible for services for children with disabilities from age 3 through 21 (IDEA, Part B) is the Department of Public Instruction. Since September 2002, the ND Interagency Coordinating Council (IDEA, Part C) and the ND IDEA Advisory Committee (IDEA, Part B) have recurrently held joint meetings.

## **YEAR IN REVIEW**

The IDEA Advisory Committee held regular quarterly meetings throughout the year. Complete minutes are available on the Department's website.

### **Meeting Summary: September 14, 2023**

John Copenhaver from TAESE held new IDEA/ICC Advisory member training.

### **IDEA Annual Report Approval – Dr. Patti Mahar**

The IDEA Advisory Committee approved the annual report. Jacqueline Adusumilli made the motion to approve, and Tracy Klein seconded the motion.

### **OSEP Levels of Determination Part B & Part C - Jackie Adusumilli & Mary McCarvel-O'Connor**

#### **Discussion**

Annually, the Secretary reviews the State's performance based on the information provided by the State in the State's annual performance report, information obtained through monitoring visits, and any other public information made available. The Secretary determines the State's Level of Determination.

- Meets Requirements
- Needs Assistance
- Needs Intervention
- Needs Substantial Intervention

IDEA-Part C Level of Determination – North Dakota Meets requirements on the February 2022 submitted SPP/APR for Part C. Every year, OSEP asks for clarification, and this year, we had no clarification, which means the data was clear and concise.

IDEA-Part B is in Needs Assistance for the second year. The following is what ND Part B lost points on.

#### **Results: Students with Disabilities**

- Participation in 4<sup>th</sup> and 8<sup>th</sup> grade NDSA-Reading and Math
- Dropping Out
- Graduating with a High School Diploma

#### **Compliance:**

- Secondary Transition

What are some reasons students with disabilities are not participating in NDSA?

- Teachers could be presenting it as an option to opt-out or not participate in the NDSA/NDAA
- Significant behaviors could prevent participation
- Student Absence

- Student refusal to participate
- Parent Awareness of their options
- Some parents feel that results of this type of assessment are not a valid or accurate indicator of their child's true abilities (ie; child may not be fully engaged, vested in, or understanding of the connection of this test to their education/educational implications)

#### Solutions to get students with disabilities to participate in the NDSA

- Preparation tools for students, guidance on what the tests would look like for parents and students to prep
- Parent and student education and explanation of relevance and importance by their team
- The teachers amp the test up and it produces anxiety in students How to educate to teachers the importance of the test but without invoking the anxiety in kids.
- Some schools use an "incentive" that if students test proficient in certain areas they can opt out of an end of semester exam at the high school level without understanding the pressure this places on those students who have anxiety.
- Some students are non-verbal and maybe the test is not applicable for those students. For students with significant cognitive impairment we have the Alternate Assessment test.
- Some children have test anxiety and the way some districts could potentially be "promoting" this test in a way that exacerbates that anxiety.

[DLM Parent Information - IE \(dynamiclearningmaps.org\)](http://dynamiclearningmaps.org)

[DLM At-Home Teaching Resources \(dynamiclearningmaps.org\)](http://dynamiclearningmaps.org)

#### Reasons students are not graduating and dropping out

- Absences
- Disengagement of course and they don't obtain the credits for that course so they drop out.

#### Solutions for graduation and dropout

- Possible solution – different types of schools – more virtual options
- Maybe more options for gaining credit that the student felt comfortable with would assist in gaining/obtaining credit
- Sometimes, I have assisted students in obtaining credit through NDCDE for specific courses they had not passed when agreed upon by the team, which is more appropriate than individualized pull-out courses
- I think one big solution would be to individualize types of education. With the emergence of technology, the individualization (much like the Virtual Academies, etc) makes this so much easier.
- How do we connect the student to one person in the building that students could go to? Mentor?
- Study skill type classes - executive functioning skills. If schools were a little more flexible and give that one one-on-one support.
- Build a robust community of mentors within our school buildings.
- The one drawback of choice would/could be a possible significant increase in a need for resources differently than what a school would typically provide for those students to be able to access FAPE - just a view to consider - I have typically been in favor of supporting students however I could when I was in the classroom.
- Legislation now is allowing you to enroll in any school in ND. You can now open enroll in a virtual school. The barrier is when the new school accepts that open enrollment request and the student is a long distance away the responsibility of FAPE now falls on the new district and how do you provide those supports virtually if that isn't appropriate for the child?



- Making referrals and parents aware of DD services. Region 5, we get DD and VR people to the table. Parents are always aware what those process are when they should be starting the process.
- Am I remembering correctly that there was free tutoring through a state agency once upon a time? I agree that parents are not necessarily aware of all of the potential services that are available. Also, connection and relationships are so important. Students are much more likely to stay in school if they feel connected - yet it is not always easy to establish connections and relationships for all teachers for a multitude of reasons - it is easier in smaller schools to help support and connect with students (my opinion).
- Grand Forks has a mentoring center that has afternoon sessions. It is so popular that they are limiting to two times a week so they can offer it to more students.
- The 68th Legislative Assembly has secured funds to provide [Amira Learning](#) at no cost to students, families, and school districts through June 2025.
- Pocket guides, or magnets for fridge to reference to with resource information could work.

## **OSEP Differentiated Monitoring and Support (DMS) - Jacqueline Adusumilli And Mary McCarvel-O'Connor**

### **Discussion**

North Dakota Part B and Part C are in Cohort 2 2024-2025 for OSEP monitoring. We will be getting a virtual or onsite visit in January 2025. OSEP wants the state department to monitor the school districts every six years. The state currently does a data drill down to determine the units/districts that need to be monitored based on data. Pathfinders will reach out and gather some focus groups when OSEP starts monitoring with ND.

New General Supervision Guidance [State General Supervision Responsibilities under Parts B and C of the IDEA \(ed.gov\)](#)

## **Annual Dispute Resolution Report – Lea Kugel**

### **Discussion**

Annual Report for IDEA Dispute Resolution [ND Department of Public Instruction](#)

Facilitated IEP – Three requests received.

- Two were successful and
- One was withdrawn.

Mediation – Five requests were received.

- One mediation agreement
- One partial agreement,
- Two withdrawn and
- One did not result in a meeting due to parties not agreeing to move forward.

State Complaint Investigation – Ten requests were received.

- Four led to complete investigations
- Two were forwarded to OCR
- Two were withdrawn

- One did not provide allegations/violations
- One currently being investigated

Due Process – Three requests were received.

- One included parties reaching an agreement
- Two hearings were completed

Nationally, disputes declined during COVID-19, and an uptick is occurring to match data from before COVID-19. ND really did not see things that other states reported.

## **How to Support Parent Participation in Meetings – Matt Nelson**

### **Discussion**

I want to know what happens with the IDEA Advisory Committee. We are trying to find out what parents are supposed to do on the committee. Do you pay parents for their time? Do you have ways to ease them in once they join? Do you have meetings before the meetings to discuss the agenda so they know what to expect? Mary has been trying to get parents to participate more. Mary has been asking other states how do they get parents to participate more. Pathfinders asked how do parents know that these meetings are happening. Is it possible for the parent organizations to get that information and they will post in newsletters to let parents know that these meetings are happening and how they can provide public comment? P&A pushes out the info on the Executive Director's weekly email communication on meetings. We were posting on our website, but I will have to check to make sure it is posted. We need to do more. Missi Baranko said I think we need to find out how to pay parents. The investment we put into parents being equal partners on these committees, we need to pay them for their time. Stipends and training for parents whether it be disabilities or mental health, etc. Pathfinders is going to ask if there are other states or national training available for parents. Mary said we were looking at forming more committees to create/update our website, flyer and make information more parent-friendly. It is not just the compensation. It shows that they have value as being part of the committee. Better marketing could bring in the people that need to be on the committee versus someone that someone knows serving on it.

Houle, Katie E. [khoule@nd.gov](mailto:khoule@nd.gov) is the contact person for Systems of Care Grant. They have a focus on Family Support and trainings for parents.

Also, as the OSEP funded PTI we would be happy to create resources related to parent roles on the SAP/SICC. We could also bring this idea to the EAC group. That group has a group of parent groups

<https://osepideasthatwork.org/resources-grantees/sap-sicc>

[https://osepideasthatwork.org/sites/default/files/2021-10/SAP-SICC\\_WorkgroupInfoFlyer.pdf](https://osepideasthatwork.org/sites/default/files/2021-10/SAP-SICC_WorkgroupInfoFlyer.pdf)

Patti asked for volunteers to look at our website and creating a parent-friendly brochure.

- Chris Larson would be interested in helping both website and parent friendly brochure
- Jodi Webb would be interested in helping both website and parent friendly brochure
- Brenda Ruehl – would be willing to help with either or both
- Possible Parent

## Part B 2023-2024 Initiatives – Mary McCarvel-O’Connor

### Discussion

- **Promoting Progress through Specially Designed Instruction** - [SDI \(nd.gov\)](https://nd.gov)
- Specially designed instruction is what is "special" about special education.  
**IDEA Sec. 300.39 (a) (1): special education means specially designed instruction.**

Andrea Johnson had a comment - PCBL and Mastery Learning can be examples of specially designed instruction as curriculum, instruction, and learning are tailored to individualized student needs that enable students to engage in and participate in regular education while learning is tailored to students' needs - however, we still have some "push" from some educators whose schools have adopted PCBL and Mastery Learning for students to be individualized or pulled out.

### Regression Analysis Tool

It takes five to six years for students with disabilities to graduate versus four years for their non-disabled peers. We found that attendance rate is the strongest predictor.

- **State Systemic Improvement Plan – SSIP Action Plan Update** - [NDSSIP Action Plan and Timeline](#)
  - All student graduation rates above 95%
  - Peace Garden – 95.34%
  - Rural Cass – 97.74%
  - East Central – 97.01%
  - Southwest – 97.30%
  - Northern Plains – 97.67%
  - Pembina – 98.04%
  - West River – 95.05%
  - James River – 95.70%
  - GST – 97.74%
  - Upper Valley – 95.73%
  - CREA (Lonetree) – 95.24%

### Students with Disabilities Graduation Rate Higher than 95%

- Rural Cass
- South Central Prairie
- Northern Plains

### Four Units Higher Than Expected Rates

- Peace Garden
- Rural Cass
- Northern Plains
- Minot

### Three units that Surpassed Targets

- Fargo
- West Fargo
- Grand Forks

**Educator Pathway** – This was started with ESSER funds. To give high school students interested in entering the teaching field the opportunity to take dual credit while still in high school, which will count towards both graduation requirements and college credit. We have five courses now. We are working with five universities. The courses are online classes.

**Indicator 4 Suspension/Expulsion** – suspension/expulsion of more than 10 days. We look at all students with disabilities, and we get a state rate. Any unit/district that is above five percent, the state investigates. ND needs to look into this and create a stakeholder group to help identify a methodology that will be approved by OSEP. If you are interested in being on this group, please let Michelle Woodcock know. Brenda Ruehl, Jessica Howling Wolf and Jodi Webb would like to be part of this stakeholder group.

### **Deaf and Hard of Hearing Policy Paper & Vision Policy Paper -Lacey Long**

#### [Deaf Hard of Hearing \(nd.gov\)](#)

- The Office of Specially Designed Services recently updated NDDPI’s Informational Paper on “Deaf and Hard of Hearing Students in ND School”.
- The informational paper includes updates that align with NASDSE’s “Optimizing Outcomes for Students who are Deaf or Hard of Hearing: Educational Service Guidelines”.
- The paper highlights the role of the TODHH, the Expanded Core Curriculum for SDI, and the benefits of a Communication Plan.
- The paper also includes the ND Deaf Child Bill of Rights (HB1366 from 2015) and interpreter EIPA score requirements (EIPA score of 3.5). A score of 4.0 or above is optimal for interpreting in the educational setting. NDDPI will work with TAESE to provide IMET Mentoring.

### **Students with Visual Impairment in ND Schools Informational Paper**

#### [Visual Impairment Document \(nd.gov\)](#)

- The Office of Specially Designed Services recently updated NDDPI’s Informational Paper on “Students with Visual Impairments in North Dakota Schools”.
- The informational paper includes updates in response to OSEP’s National TA Call from November 17, 2022, clarifying:
  - Letter to Kotler from November 12, 2014 (modifier)
  - Memo 17-05 from May 22, 2017 (two-step process)
  - Ocular Motor Impairments (convergence insufficiency)
- NDVS/SB will also host a virtual ND TVI Training on Thursday, September 21, from 3-4 p.m. to discuss considerations for students with Convergence Insufficiency.

### **Early Childhood Updates – Angela McSweyn**

Children ages birth-5 in North Dakota. Early childhood services – currently 1,781 students. Best in Class – 50 programs. Four-year-old program- 113 programs approved. Waterford Program –978 students enrolled.

Early Childhood transition – IDEA-B and Part C. Part C – it’s not just an IDEA, It’s law! FAPE by 3 is the ultimate goal. [Part C](#) of the IDEA requires that children and their families participating in early intervention programs who are potentially eligible for the IDEA preschool special education program experience a smooth and effective transition to those preschool programs. Each child who is eligible under Part B must have an [Individualized Education Program \(IEP\)](#) developed and implemented by age 3.

Part C and B Joint Transition Guidance

[Understanding Transition:](#)

Statewide C & B Survey

95 professionals responded!

Next Steps:

- State Workgroup
- Member Selection
- Seeking Family Representative
- Provide recommendations to the State for updated guidance and policies.

### **North Dakota Preschool Development Grant (PDG)**

[Preschool Development Grant Birth-Five | Health and Human Services North Dakota](#)

- Updated Needs Assessment
- Family Engagement
- Kindergarten Transitioning
- ECCE Standards
- Workforce
- Pyramid Model

### **SUGGESTIONS SUMMARY**

**Issues and Concerns in our State:** No Issues.

#### **Action Items:**

The committee approved the April minutes. Jodi Webb motioned to accept the minutes, and Jacqueline Adusumilli seconded the motion. The committee voted and approved the minutes.

The meeting was adjourned at 4:00 p.m. Brenda Ruehl made the motion, and Tracy Klein seconded the motion to adjourn.

**Public Comment:** No Public Comment

Jessica Howling Wolf is stepping down from Vice Chair, and Chris Larson volunteered to serve as Vice Chair. Chris Larson was voted vice chair for the IDEA Advisory Committee by the committee.

The December meeting is scheduled for December 14, 2023. The meeting will be virtual.

Agenda Items for the December meeting:

- School-Based Medicaid program
- Suspension/expulsion more often. Parents are being told to move their students to homebound.

**Meeting Summary: December 14, 2023 – The meeting was held virtually.**

#### **Update of Website and Brochure Committee – Dr. Patti Mahar**

Chris, Brenda, Jodi, Patti, and Michelle will meet on January 9<sup>th</sup> at 2:30 p.m.

#### **Discussion on Stipends for Committee Members – Mary McCarvel-O’Connor**

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.

## Dispute Resolution Training – Lea Kugel

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.

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.

Most Commonly Disputed Areas:

- 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)

ND State Law:

- 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

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 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 parents can make their own state complaint. Children stay put during due process, which can take 1 to 2 years.

## **Suspension/Expulsion Discussion – Mary McCarvel-O’Connor**

North Dakota’s results look really good, except...

OSEP provided this feedback to NDDPI’s APR, which was submitted in February 2023.

“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.”

Based on preliminary 2022-2023 data:

- State rate for suspending students with disabilities was .43%
- New method is to review districts at three times the state rate ( $3 \times .43\% = 1.29\%$ )
- 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

Several districts reporting no suspension/expulsions of 10 days or more will be selected and reviewed. This will hopefully allow us to learn:

- 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

Manifestation Determination Review (MDR)

- 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

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 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.



## **Early Childhood Update – Angela McSweyn**

### Early Childhood and Pyramid Model Updates

- 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

### What do ND families and educators want?

- The same school experiences as their peers without disabilities
- Services and Inclusion
- Inclusive childcare

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

This website creates content for parents, administrators, and teachers. The map shows the different REAs throughout the state. You create an account, log 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 to 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.

## **School-Based Medicaid Program – Mandy Dendy**

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 1<sup>st</sup>.
- 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.

- 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
- 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.

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.

\*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.

**Issues and Concerns in our State:** No issues.

**Action Items:**

We will approve the September minutes in March since not enough IDEA Advisory Committee members attended today.

No Committee Member concerns.

September 12<sup>th</sup> was selected as the Joint ICC/IDEA Advisory Meeting, which will be hybrid.

The meeting was adjourned at 1:58 p.m. Nicole Reybok made the motion, and Janakate Walker seconded the motion to adjourn.

**Public Comment:** No Public Comment.

The March meeting is scheduled for March 19, 2024. The meeting will be virtual.

Agenda Items for the March meeting:

- Approve September Meeting Minutes
- Discuss the September meeting

### **Meeting Summary – March 19, 2024**

#### **Discuss the Joint IDEA/ICC September 12<sup>th</sup> Hybrid Meeting – Dr. Patti Mahar**

Katy and Jodi said it is easier to have the meetings virtually. Tracy likes the hybrid option. The committee agreed that they wanted a hybrid meeting.

#### **IDEA Advisory Subgroup Committee – Jodi Webb**

The subcommittee has worked on creating an IDEA Advisory Committee membership brochure, updated the website, and created an application for new members.

#### **IDEA-B Application – Michelle Souther**

We are in the process of completing our Part B Application. It will be posted on our website, and an announcement will be sent out to the directors and posted in the newspaper regarding the 60-day comment period.

#### **Administrative Rule Change 67-23-01 and 67-23-01 – Morgan Edmundson**

SB 2013 DPI Budget bill

- Major life activities" include learning, walking, talking, breathing, and caring for oneself.
- "Student with a significant medical condition" means a student with a physical or mental impairment, whether permanent or temporary, which substantially limits one or more major life activities and who is not entitled to special education and related services.
  - Added a child on a 504 with a significant medical condition could be considered a high-cost student.

DPI is looking to update our Admin Rule. DPI is asking if the IDEA Advisory has any comments on it. These students would be on a 504 plan with a significant medical condition.

#### **Indicator 4 – Michelle Woodcock**

**Based on 2021-22 data, the state rate for suspending SWD for greater than 10 days in ND is 0.33%**

- 3 times this rate would be 0.99%
- 7 districts would be reviewed for being over 0.99%

The old cut score would have been  $.33\% + 5\% = 5.33\%$

Please click on the survey link in the chat or use the QR code to complete the survey:

<https://forms.office.com/g/dzFuGam4jv>

When a district flags, we need to go through policy and procedures.

## **SSIP Action Plan for 2024-2025 – Michelle Woodcock**

6-Year Graduation Cohort of Students with ED

<https://www.nd.gov/dpi/sites/www/files/documents/SpEd/NDSSIP%20PIER%20Tool%20Infographic%202022-23.pdf>

Each year, every special education director (with high school students) completes a Planning, Implementing, and Evaluation Report (PIER) tool.

Some things learned this last year:

- The use of state-identified Evidence-Based Practices increased.
- Even though the state met the target, to get to our 2025 goal there are still 10 special ed units below the target.
- They listed help that is needed from NDDPI, a lot of which is included in the Action Plan for 23-24.

Data-Driven Enterprises support the SSIP work for NDDPI. Every year they put together this infographic that helps paint the picture of factors that impact graduation in ND.

Abbreviations & acronyms are explained in the top right corner of the page.

Some highlights:

- Attendance rates & Choice ready data are strongest predictors of graduation for students
- Districts using Early Warning Systems have been successful in meeting their targets
- The “Other Relationships” section (bottom left) has some information that can inform future work

Other “I wonder, I notices, what ifs” that the community of practice has?

[Key Strategies for 2023-24 \(nd.gov\)](#)

Messaging – The SSIP Team will continue to focus on Early Warning Systems and Behavioral supports to help keep kids in and engaged in school.

Inter- and Cross-Departmental alignment – In addition to the Internal NDDPI SSIP Team that meets every other month, the work now includes:

- A Behavioral Health Collaboration Team has been formed. It is made up of 5 NDDPI employees whose portfolios include some components of behavioral health and two human services employees whose work overlaps kids and schools.
- System of Care work – this Human Services grant overlaps 12 Special Education units in ND, and the focus is on children with significant social-emotional-behavioral needs. Michelle now sits on guidance committees in the two regions implementing the grant (Bismarck and surrounding areas, Devils Lake and surrounding areas).

Fidelity of Early Warning Systems – NDDPI works with the American Institute for Research to increase training and implementation fidelity around the use of Early Warning Systems.

Evidence-Based Practices – training and support will continue around the 4 state-supported Evidence-Based Practices for Students with ED. These include Opportunities to Respond, Check In, Check Out, Behavior Specific Praise, and Check & Connect.

PIER Tool – we will continue to use and refine the PIER Tool to collect information from our special education units to inform & improve the work.

Fidelity Measure Enhancement – NDDPI will continue to build and train on fidelity measures to ensure systems within districts are working as efficiently as possible.

Regression Analysis – each year, a new regression analysis will be completed to look at predictors of graduation and trends.

Big Five Education Focus – Being half of the students in ND are educated in 5 districts. Therefore, to support the majority of students there will be a focus on Minot, Bismarck, West Fargo, Fargo and Grand Forks.

Patti was wondering what professors could teach incoming students. Students with ED graduation rates are increasing.

[CRDC Data Overview](#)

Graduation Rates: Students with Disabilities

	2017	2018	2019	2020	2021	2022	2023	2024	2025	
State Rate	66.34%		68.60%		73.36%		76.12%		76.45%	70.89%
Target	89.00%	89.00%	89.00%	76.12%	76.12%	76.32%	76.53%	76.93%	77.74%	

Dropout Rates: Students with Disabilities

	2017	2018	2019	2020	2021	2022	2023	2024	2025	
State Rate	16.53%		19.40%		16.48%		18.38%		20.39%	25.60%
Target	18.00%	18.00%	17.00%	18.38%	18.38%	18.23%	18.09%	17.80%	17.21%	

Graduation for Students with ED

	2017	2018	2019	2020	2021	2022	2023	2024	2025	
State Rate	66.40%		53.10%		56.40%		62.04%		58.12%	67.21%
Target	63.22%	66.72%	66.72%	62.04%	62.04%	62.74%	63.44%	64.84%	67.63%	



## What we know

- Disengagement from school is gradual.
- Students send identifiable signals.
- Data can be used to identify trends.
- Studying trends enables educators to intervene.

American Institute for Research

## Relationship between Attendance and Achievement

- Children who are chronically absent in preschool, kindergarten, and first grade are much less likely to read on grade level by the third grade.
- Students who cannot read at grade level by the third grade are four times more likely to drop out of high school.
- By high school, regular attendance is a better dropout indicator than test scores.
- A student who is chronically absent in any year between the eighth and twelfth grade is seven times more likely to drop out.

[Students with Disabilities and Chronic Absenteeism \(umn.edu\)](http://umn.edu)

## Johns Hopkins University Everyone Graduates Center

- As early as sixth grade, school-based factors can predict who will drop out.
- Attendance, behavior, and course performance are the strongest predictors of school dropout.

The researchers also demonstrated that three factors—attendance, behavior, and course performance—are the strongest predictors of dropping out, and these factors often are interrelated. The researchers traced predictive indicators for dropping out of high school as far back as the sixth grade and found that the indicators predicted at least 50 percent of eventual dropouts. They found that sixth-grade students with one or more of the indicators had only a 15 percent to 25 percent chance of graduating from high school on time or within one year of expected graduation.

These findings have been validated many times through longitudinal studies in both states and large districts.

Every kid is someone's whole world. All kids want to be included & be successful.

## Function of Behavior

- Sensory
- Escape
- Attention
- Tangible

## How do you Define it?

- **Insubordination** – defiance of authority; refusal to obey orders
- **Disorderly Conduct** – unruly behavior constituting a minor offense

- **Habitual Indolence** - avoidance of activity or exertion; laziness

### Why Define These?

15.1-19-09. Students - Suspension and expulsion - Rules.

1. The board of a school district shall adopt rules regarding the suspension and expulsion of a student. The rules for expulsion must provide for a procedural due process hearing in the manner provided for in subsection 2 of section 15.1-19-10 before the determination to expel a student is made. A student's parent or representative must be allowed to participate in the expulsion hearing.
2. A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy.

[North Dakota Century Code t15.1c19 \(ndlegis.gov\)](http://ndlegis.gov)

### Chronic Absenteeism vs. Truancy

- Chronic Absenteeism – Missing more than 10% of the school year, including both excused and unexcused absences.
- Truancy – (NDCC 15.1-20-02.1) Any student absent from school without excuse for more than:
  - Three school days during a semester of the school district's calendar
  - Six half days during a school district's calendar; or
  - Twenty-one class periods

### Truancy Policy

15.1-20-02.1. Attendance - Determination - Policies.

3. This chapter does not preclude a school district or nonpublic school from withholding credit, removing a student from a course, **or taking other punitive measures against a student who does not arrive in a timely fashion** or who exceeds a specific number of absences, as determined by the school district or nonpublic school.

## Exceptions

### 15.1-20-02. Compulsory attendance - Exceptions.

1. Section 15.1-20-01 does not apply if the person having responsibility for the child demonstrates to the satisfaction of the school board that:
  - a. The child is in attendance for the same length of time at an approved nonpublic school;
  - b. The child has completed high school;
  - c. The child is necessary to the support of the child's family;
  - d. A multidisciplinary team including the child's school district superintendent, the director of the child's special education unit, the child's classroom teacher, the child's physician, and the child's parent has determined that the child has a disability that renders attendance or participation in a regular or special education program inexpedient or impracticable;
  - e. The child is receiving home education; or
  - f. The child is a military-connected student engaging in virtual instruction under section 15.1-07-37 at the educational entity of the gaining or losing military installation, a student with a medical condition unable to physically attend school, or a student moving out of state and virtual instruction is allowed by the gaining or losing educational entity.
2. The period of virtual instruction under subdivision f of subsection 1 may not extend beyond the current school year.
3. A decision by the board of a school district under subsection 1 is appealable to the district court.

## Federal Policy

The Office of Special Education and Rehabilitative Services' (OSERS) view, exclusionary discipline should not be used for non-violent offenses such as, tardiness, absenteeism, or subjective offenses such as defiance or disrespect.

[Positive, Proactive Approaches to Supporting Children with Disabilities: A Guide for Stakeholders. OSEP Policy Support 22-01 \(TA guide\). July 19, 2022. \(PDF\) \(ed.gov\)](#)

## Exclusionary Discipline

The formal or informal removal, whether on a short-term or long-term basis, of a student from a class, school, or other educational program or activity for violating a school rule or code of conduct. Examples can include detentions, in-school suspensions, out-of-school suspensions, suspensions from riding the school bus, expulsions, disciplinary transfers to alternative schools, and referrals to law enforcement, including referrals that result in school-related arrests.

Not formally defined in IDEA or Section 504. First time there has been a definition provided.

[Positive Supports for Behavior and Discipline | OSEP Ideas That Work](#)

## Where to Find the Policies

### U.S. Department of Education Discipline/Behavior Guidance and Resources

#### Policy Documents

- [OSEP Dear Colleague Letter on Implementation of IDEA Discipline Provisions](#) . (en espanol)
- [Questions and Answers Addressing the Needs of Children with Disabilities and IDEA's Discipline Provisions](#) . (en espanol)
- [Positive, Proactive Approaches to Supporting the Needs of Children with Disabilities: A Guide for Stakeholders](#) . (en espanol)
- [Supporting Students with Disabilities and Avoiding the Discriminatory Use of Student Discipline under Section 504 of the Rehabilitation Act of 1973](#) and an accompanying [Fact Sheet](#) .
- [Office of Civil Rights: Resource on Confronting Racial Discrimination in Student Discipline](#) (ed.gov)
- [Dear Colleague Letter](#) on ensuring equity and providing behavioral supports to students with disabilities (Aug. 1, 2016)

For additional information, please visit: <https://sites.ed.gov/idea/topic-areas/#Discipline-Behavioral-Supports>

## NDDPI Resources

- [Discipline Policy Paper \(nd.gov\)](#)
- [Functional Behavioral Analysis & Behavior Intervention Plan Guide](#)
- [Suspension Expulsion Truancy Report Instructions \(nd.gov\)](#)
- [ED Guidelines \(nd.gov\)](#)
- [Youth Behavioral Health | NDDPI \(nd.gov\)](#)
- [Behavioral Health and Education | NDHHS](#)

Tracy said age 7 mandatory attendance is only in theory. There are no "laws" that enforce this beyond schools reaching out to families via social workers and phone calls. Schools are employing pediatric partners, school psychologists, etc., and we are looking at the causes. We want them in school. Jodi said I know there is a lot of effort, but there are a lot of rural schools that don't have the training or staff to deal with absenteeism and deal with anxiety. What is the state doing for this? Michelle Woodcock said that they are going to record some video presentations for special education units to use for training. Brenda said we have kids living in hotels with multiple caregivers. They have been homeless and out of school. The system is broken. The school will get a child, but waiting 6-8 months for services is too long. Kids are being sent to Fargo and Bismarck, living in a hotel without their guardian/family. A lot of the time, the school is the students' only safe place and the place they are getting their only meals for the day. How do we get these children where they need to be? Support these children? These kids need a safe living environment with support because a lot of them have severe emotional needs. Debbie said that when there are so many children in that situation, as you mentioned, the schools can only do so much. What is working, and how can we share it? Traumatized children cannot learn until their basic needs are met. If they get pulled out of the home and now they are put into a school where they have no relationships and are expected to learn. It is not going to happen. Nicole said she agrees we have to focus on the behavior/social-emotional first before we focus on academics, but teachers say, I need this student to meet the state standards. Debbie said Nicole made some very valid points regarding caring for the social and emotional health of a child before any instruction can take place and be meaningful. I think that school and agency personnel try to help everyone and that is impossible. We need to start with a small group and concentrate on these children and then include more students, as the original group of students can manage their issues better.

## **BI-Laws Change – Dr. Patti Mahar**

We need to add the following to our IDEA Advisory Bylaws.

- Advise the Department of Public Instruction in developing evaluations and reporting on data to the Secretary under section 618 of the Act to the bylaws.

The committee voted and approved this being added to the bylaws.

Brenda Ruehl motioned, and Jodi Webb seconded the motion.

**Issues and Concerns in our State:** No Issues.

### **Action Items:**

The September meeting minutes were approved. Tracy Klein made the motion and Brenda Ruehl seconded. The December meeting minutes were approved. Jodi Webb motioned, and Brenda Ruehl seconded.

Tracy Klein wants the advisory committee to contemplate adding a provisional for the special education director. He had several candidates that were qualified, but they didn't have a master's in special education or were missing the eight administrative credits. He said they are missing out on applicants because there is no provisional option for this credential. Jodi agreed that the provisional was a good option, with a three-year option for them to obtain the required coursework needed for the credential. Brenda felt that there should be a discussion about a provisional. Nicole doesn't want the requirements lowered for the credential, but she would be open to allowing a provisional for them to obtain the required coursework. This topic will be added to the September meeting agenda.

The meeting adjourned at 11:45 a.m. Jodi Webb made the motion, and Tracy Klein seconded the motion to adjourn.

**Public Comment:** No Public Comment.

The September meeting is scheduled for September 12, 2024. The meeting will be a hybrid meeting.

Agenda Items for the September meeting:

- Directors Credential Administrative Rule Changes
- IDEA Dashboard Data
- IDEA Advisory Membership Brochure