

**Council on Educational Services for EC**  
**March 13, 2019**  
**Summary of Actions**

**New Member Orientation**

Carol Ann Hudgens, Section Chief for Policy, Monitoring and Audit, provided an overview of the Council's responsibilities and requirements for new members.

**Welcome, Call to Order, Introductions, Review of Agenda, Review of Meeting Minutes for December**

Leanna George, Chairperson, opened the meeting by welcoming members and greeting new members. The Council provided self-introductions. The Council reviewed and approved the December meeting minutes.

**Followup – Council Statement to Governor's Crime Commission on School Safety**

Ms. George advised that the Council's collective statement was prepared and completed but has not yet been submitted. Ms. George read the statement aloud and will share the document once internet access is available.

**Disability Rights – Year in Review**

Ginny Fogg, attorney at Disability Rights NC (DRNC), introduced herself and advised Council that she would present an overview of last year's work at DRNC.

DRNC is a protection and advocacy organization for citizens with disabilities in the state, protecting disabled individuals' rights throughout their entire lifespan, not just during school years. Ms. Fogg's area of focus is students with disabilities pre-K through 12<sup>th</sup> grade. Other attorneys within her organization work with other elements for citizens with disabilities.

For the past several years, DRNC's Special Education Team (Ms. Fogg's area) target work is keeping students with disabilities (SWD) in school. SWD sometimes appear to be excluded from school based on their disability, such as through long-term suspensions and these incidents may appear to be relate to their disability. An example is an autistic student with a meltdown strikes a teacher, which is a student conduct violation, but procedurally the incident may directly relate to the disability. DRNC assigns a case manager/attorney to cases they take on and will go to IEP meetings, file a state complaint (if applicable), but DRNC rarely files a due process with Office of Administrative Hearings.

Another hot issue is homebound placement without LEAs completing all of the proper procedures to ensure least restrictive environment. DRNC collaborated with DPI recently regarding Homebound, via EC Division's Homebound Stakeholder group of statewide representatives. Part of the stakeholder work was a survey, which received a high response rate, to all LEAs on how they were using homebound. LEAs were also questioned about modified day schedules. Homebound is recognized as possibly being appropriate for a short period of time, but DRNC was seeing homebound used as a long-term placement (1-3 years) in some cases. The most common amount of instruction time for homebound is approximately 0-3 hours per week, sometimes for up to a 75-day period. The Homebound Stakeholder group created guidance for LEAs/IEP Teams to consider before using homebound as the placement. This guidance is also IDEA compliant. Additional resources were also included like mental health services, FBA explanations, etc.

DRNC also had recent cases of students being excluded from nursing services. DRNC is required by federal law to provide information and referral resources. DRNC has numerous fact sheets in order to

provide information/resources to callers even if the subject matter doesn't fall within their focus work. Fact sheets should be available on website at [disabilityrightsnc.org](http://disabilityrightsnc.org).

Council asked if they are collecting patterns, regionally and LEA-specific. No specific data are collected but generally DRNC is charged and works to resolve systemic issues/systemic problem-solving.

Council asked how do they pick focus targets. Communication staff conduct statewide surveys/listening sessions every four to five years, physically going across the state for the public to tell about issues they are seeing. Ask people with disabilities to provide opinion on what target should be.

Council asked for students receiving homebound, is there any additional information/guidance given regarding services upon re-entering the school. DRNC indicated mostly behavior specialists were used, along with the FBA/BIP and to identify specifics that led to the situation to occur.

DRNC does perform unannounced LEA monitoring visits regarding seclusion and restraint. This past school year, a second DRNC target was to reduce restrictive intervention, meaning a SWD being put in seclusion or being restrained. Advocate goes across the state with unannounced visit to investigate and monitor. DRNC has LEA access authority based upon federal statute to essentially tour a facility and ask staff members questions about seclusion and restraint, look at accommodations. If DRNC has a belief abuse is occurring, DRNC can open an investigation. If seclusion and restraint is happening frequently, DRNC believes that needs to be looked at systemically. Schools with self-contained classroom would be a second tier, right after separate self-contained schools. DRNC sees a lot of creative uses on in school suspensions.

Biggest training need DRNC sees as a result of investigations is mental health and behavior support services. All students need mental health and academic supports. Once mental health issues are addressed, really amazing progress can occur. DRNC would be supportive of mental health/behavior support training for special education teachers/paraprofessionals. Research shows all staff being trained relative to mental health results in situations from developing.

Council noted principals and special education are growing further apart. Council suggested principals receive targeted professional development; EC training in particular. For their cases, DRNC generally contacts EC Director first to make sure they are aware of situation, most of time they are not, then EC Director contacts the principal. But by this time there appears to already be a lack of communication or break down of communication. IEP Team members sometimes feel like they are not the appropriate personnel to make the appropriate changes. DRNC recommends an LEA contact person for "hard to solve" SWD issues. Assistant Principals should also be included with the targeted training along with the Principals. Assistant Principals seem more actively involved/conduct most of the discipline of students. It was also mentioned to include IHEs for Principal/Assistant Principal licensure. There is never enough mental health services available and it's not just a kid issue, also parent/family mental health issues.

In regulations, there are two parts for an LEA representative on the IEP Team; 1-qualified to provide/supervise special education; and 2-have the authority to commit the resources of the LEA. Multiple combinations of this can occur for IEP Team meetings, but decisions cannot be made outside the context of the IEP Team meeting.

Council may consider making recommendations for Principals/Assistant Principals be included on EC training on regular basis.

DRNC newsletter is a commendable resource along with their Facebook page. Council is invited to DRNC conference in May in Durham.

## **Progress Monitoring**

Matthew Martinez, Consultant for Significant Cognitive Disabilities, provided a presentation on progress monitoring in relation to students with significant disabilities on the extended content standards.

Progress monitoring occurs on IEP goals. Progress monitoring must be a systematic, frequent collection of individual performance data. IEP goals should be specific, measurable, attainable, relevant/results-oriented and time based.

Progress monitoring is different than assessments. Progress monitoring is under the autonomy of the teacher. Progress monitoring is conducted frequently, provides an easy and quick method for gathering performance data and gives analysis of student progress to modify instruction. It also personalizes data to share with parents, is useful in making adjustments and getting insight from parent. Mr. Martinez also provided examples of progress monitor instruments that can be used in the classroom, anecdotal note examples, and a helpful resource of google monitoring IEP goals monitoring forms. Progress monitoring should be presented to parents during IEP meetings.

## **Committee Work – Drafting Annual Report**

All committees gathered in small group. A group discussion occurred to collect any committee recommendations for the annual report to the State Board of Education.

## **Public Comments**

There were no in-person registrations for Public Comment.

## **Committee Reports**

Each committee reported out during committee work above.

## **Surrogate Parents**

Carol Ann Hudgens, Section Chief of Policy, Monitoring & Audit, presented a high-level overview of Special Education Surrogate Parents based on a previous interest of Council.

Each LEA must ensure that the rights of a student are protected even when no parent can be identified after reasonable efforts on the part of the LEA, the student is a ward of the state or the student is an unaccompanied homeless youth.

The duties of an LEA include the assignment of an individual to act as a surrogate for the parents. These duties include:

- determining if a student needs a special education surrogate parent
- assigning a special education surrogate parent, if applicable
- Training that ensures special education surrogate parent has knowledge and skills that ensure adequate representation for the child

The criteria for a special education surrogate parent:

- is not an employee of the SEA, the LEA or any other agency involved in education or care of student, such as DHHS, a group home or therapeutic foster parent
- Has no personal or professional interest
- Has knowledge and skills that ensure adequate representation of the student

Special education surrogate parents only serve in the “parent” role in special education decisions within the context of the IEP process. They cannot sign other school forms. However, a judge can appoint someone that can sign other forms.

NC 1500-2.24 Parent definition within *Policies* coincides with federal regulations. The biological or adoptive parent is always the first consideration. How to determine the “parent” is to, first step, review the current court order. Verify the status of parental rights of BOTH parents and the court-ordered plan for the student. LEA does NOT have authority to appoint special education surrogate parent if parent is available or can be identified but refuses to attend a meeting.

Initial evaluation cannot move forward unless there is parental consent. After evaluation conducted, but before services can begin for the first time, need parental consent again. Reevaluations also present the same issue.

Wards of the State - Foster parents and special education surrogate parents are used for students who are wards of the state and parents’ rights have been terminated or the court has assigned person to make educational decisions. Unaccompanied youth may need a special education surrogate parent.

The role of special education surrogate parent is to only represent student when decisions about his/her special education program are made concerning identification, evaluation, design of IEP, including placement, and ongoing reviews. The LEA may terminate the assignment.

The year before student turns 18, need to start discussions about guardianship.

EC Division website has training resources for Special Education Surrogate Parent for LEAs.

### **Agency Updates**

Sherry Thomas, Director of Exceptional Children Division, presented the following updates:

New staff:

- PIPD – Ginger Starling, Online Learning Development & Implementation
- Regional Adm Support -Lynn Metcalf – Regional Coordinator for Charters (SW, NW, W); Michelle Hamm (Regional Coordinators for Charters (NE, SE, Sandhills)
- SPD-Amanda Byrd (Section Chief), Elizabeth Millen – Cons for IDEA Fiscal monitoring
- EC Delivery Team – Traci Tillis- Section Chief/Project Manager ECATS
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National Association of School Psychologists (NASP) Award Recipients – two NC people received Lifetime Achievement Awards - Rhonda Armistead, Charlotte Mecklenburg Schools; and School Psychologist of the Year, Leigh Kokenes from Wake County Public Schools.

Stakeholder group for adapted curriculum is coming together for the purpose of personnel pre-service and in-service support and educator skill building, build understanding of barriers to success of students, to make recommendations to improve student success and reduce/eliminate barriers.

Expected deliverables:

- 1-academic and program review in adapted curriculum
- 2-research current and relevant information to support pre-service and implementation in LEAs
- 3-develop recommendations and action items for EC Division
- 4-identify next steps

Sherry advised to contact her if anyone knew of a parent interested in serving on this stakeholder group. LEAs and IHEs are included.

SLD Policies effective July 1, 2020. EC Division produces a monthly newsletter.

ECATS –not gone away, still a work in progress. Special education module development is near completion; federal reporting development is near completion, service documentation module development is near completion, MTSS module development near completion. There is a monthly ECATS newsletter. Currently data integration testing is in progress. Data transfer will be for three years. ECATS training videos are complete by PCG and approved by DPI. Rollout is proposed for Summer 2019; training is proposed for late spring. A demonstration for the Council will be in the future.

**Critical meetings:**

Chief Academic Officer – March 21  
Superintendent quarterly – March 28

Medicaid – Centers for Medicare and Medicaid have approved additional plan types for reimbursement; 504 plans, individual healthcare plans and behavior intervention plans without an IEP being required. Some allowable services: physical therapy, OT, SLP, audiology, nursing, psych and counseling services. There is continued advocacy for Charter School inclusion in fee-for-service program and equitable reimbursement rates. DPI has requested additional areas for reimbursement: personal care services, transportation, hearing and vision screening, and group service delivery for OT & PT.

69<sup>th</sup> Conference on Exceptional Children, Nov. 20 – 22. Nov. 19 is MTSS recognition, Nov. 20 is pre-conference institutes and Nov. 21-22 is general conference. Looking to increase Educators of Excellences nominees. Poster sessions are an opportunity to share your good work. Call for Proposals will occur in early April.

New EC Grant System – development projected for Summer 2019, it will include special funding applications. IDEA grant will move in 2020.

EC Division will partner with CEC and CASE on a Teacher Recruitment and Retention project. There is interest in General Assembly around special education funding. Superintendent requested 13.5% cap funding and an option for tiered funding. Need General Assembly Research group to study tiered funding to support high-needs children.

**Announcements**

ECAC – provided a brochure and announced an upcoming conference.