



SPECIAL EDUCATION ADVISORY COUNCIL MINUTES



Details

Date November 9, 2022
Time 9:00 a.m. – 3:00 p.m.
Location: Hybrid- Zoom and KNEA

Call to Order: at 9:14 a.m.

Roll Call

Members (x present, blank absent):

	Jennifer King	x	Marvin Miller	x	Whitney George
	Heath Peine		Matthew Ramsey	x	Lindsey Graf
	Barney Pontious Parent/Child to 26	x	Michelle Warner – Foster Care		
x	Brandon Gay		Paul Buck		
	Jennifer Kucinski	x	Rebecca Shultz		
x	Jennifer Kurth		Sabrina Rishel	x	Kim-Interpreter
	Laura Thompson		Tobias Wood	x	Mary -Interpreter
x	Lena Kisner	x	Trisha Backman		
		x	Dr. Troy Pitsch		

Ex-Officio Members (x present, blank absent):

	Jim McNiece	x	Ashley Enz		
x	Leslie Girard-Families Together		Jon Harding		
	Mike Burgess		Luanne Barron		
	Rocky Nichols				

KSDE Staff:

x	Bert Moore	x	Kristy Cotton	x	Kerry Haag
	Shane Carter	x	Kayla Love		Dean Zajic
	Shanna Bigler	x	Brian Dempsey		Josie McClendon
x	Cary Rogers		Julie Rand		
	Laurie Curtis	x	Alysha Nichols		

Guests:

Quorum (11) met: Yes, _14_ Voting members present

Agenda Approval: **November 9, 2022 Agenda**

Motion to approve: Marvin miller

Second: Rebecca Schultz

Action: Approved

Minutes Approval: **September 14, 2022 Minutes**

Motion to approve: Marvin miller

Second: troy Pitsch

Discussion:

Action: Approved

Public Comment:

No written comments were submitted for today's meeting. No in person comments were presented.

Member Reports

SEAC Members

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- Marvin Miller attended Tri-State Law Conference. Thanks to Bert for being on the planning committee. It was a great event. Glad to be back in person. I walked away learning a lot of stuff.
- Trisha Backman getting ready to have graduates (20+) that will be graduating in December. This is youth in the department of corrections. They will be able to bring families and have a ceremony.
- Marvin Miller has a student that will be receiving a Infinetec Technology award for improving communication with his tablet communicating device.

New Members

Trisha Backman and Bert Moore

- Welcome Lindsay Graf
 - Lindsay was chosen because she has a lot of characteristics that will benefit our team.
 - Lindsay has been working in Burlington at Coffee County SPED Coop for several years. He worked with Lindsay personally. She meets the majority requirement, with a child with a disability.
 - Lindsey is glad to be apart of this group and has been in the business for 22 years. She is excited to share her knowledge and learn from others on the team as well.
- The Leadership group has decided to add the State schools, Kansas State School for the Blind and Kansas State School for the Deaf and Hard of Hearing to our meeting as ex-Officio members since they are apart of the state agency.

Graduation Task Force

Trisha Backman

- The task force has submitted recommendations but have not had the official meeting as the Task Force with the Board.
- We do know that we are not changing the requirements of 21 credits for all high school graduates, but we want to make sure that language is clear and even if a kid doesn't have an IEP but needs permission to graduate with 21 credits as opposed to the extra credits, they are eligible.
- We wanted to make sure we added a financial literacy piece and a digital citizenship piece. There will still be 6 elective credits but 1 credit will be half digital citizenship and half financial literacy.
- If you have suggestions of items you would like to make sure are considered in that, please email Trisha Backman or Jim McNiece

SPP/APR and DMS

Brian Dempsey

- We talked last at September's meeting and went through all of the indicators and what they were, where the data was from our FY20 submission, and we reviewed the slippage and the analysis that KSDE conducted.
- The submission of FFY21 is due by the end of January.
- We are in the process of gathering our data. OSEP has released the template for submission. We will again as a team in a few weeks and again in December to review

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those and do the analysis of those areas of slippage and add on the final touches to submit.

- We will bring this back in January to go over in detail the FFY21 indicators.
- For DMS: we are in Cohort 2. The minutes from the last meeting go over these in great details please check back to those.
 - We are continuing to gather as an internal core team to put everything together to tell Kansas's story.
 - At the beginning of the year will start a high-level review of where we were at, starting with the fiscal component with Dwight Thomas (Federal Liaison). In the meantime, our federal partners are looking at our website and everything else.
 - The onsite "engagement" will not occur until September 2024
- If you have any questions regarding this, please contact Brian Dempsey, bdempsey@ksde.org.

Annual Report

Bert Moore

- We have emailed out the Annual report to the council for your review.
- Bert spent several weeks preparing this report and fine tuning all the details from last year's meetings.
- We start with the Secretary's letter then you'll find the bulleted list of the topics discussed.
 - This report does get reviewed by OSEP with they do their visit as well.
- Please review this and with any feedback or concerns please contact Bert Moore.

Licensure

Shane Carter

- Vacancy is considered to be any position that is not filled, or it is filled, but the person doesn't hold an appropriate license.
- Not considered a vacancy are positions filled by teachers on waivers, or substitute teachers that are filling in on a temporary, or if they have a special license.
- Went over the top 5 vacancy assignments:
 - Special Education
 - Fall 2021 we had 269, Fall 2022 we had 385 vacancies
 - Elementary
 - Fall 2021 we had 233, Fall 2022 we had 329 vacancies
 - English Language Arts
 - Fall 2021 we had 90, Fall 2022 we had 93 vacancies
 - Mathematics
 - Fall 2021 we had 83, Fall 2022 we had 85 vacancies
 - Science
 - Fall 2021 we had 80, Fall 2022 we had 95 vacancies

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- Total Vacancies:
 - Fall 2021 had 1253, Fall 2022 we had 1628 vacancies
- We looked at the break down of vacancies by Board Districts, it appears that District 5 have the most vacancies reports.
- Regulations Update:
 - The Board will vote at the December meeting to implement the suggested changes
 - Change Special Education Generalist, High Incidence to Secondary Education, Unified
 - Director of Special Education updates will include a new leadership license for Director of SPED, building leadership core plus SPED, and Ability to subsequently pursue district leadership license
 - Elementary education grade level will be changed to PreK-6

IDEA Due Process

Mark Ward

- 34 CFR 300.514c
 - You can find these redacted Due Processes on the KSDE webpage click on the Legal Special Education Law, down on the bottom you can find the decisions
- 21DP-001
 - This was filed in August of 2020 and decided in July of 2021
 - This one is roughly 220 pages long and the prevailing party is the parents
 - It was appealed and the review officer's decision was 148 pages.
 - It has now been appealed to the United States District Court.
 - This is a child find case. The hearing officer found 4 things:
 - The district failed to properly evaluate the child and;
 - Failed to develop an appropriate IEP
 - Failed to implement the IEP that they developed
 - Failed to provide and independent Educational Evaluation, that was requested by the parent and significantly impaired the parents' opportunity to participate in the decision-making process.
 - The parents were requesting private school tuition, and the hearing officer denied that request, even though he found against the school district on every issue
 - The order instead said the student was to remain in the district schools, but with the services of a Special Education IEP specialist, a Board-Certified Behavior Analyst, and an Educational Tutor all to be paid for by the district plus some ABA services
- 21DP-002

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- This one is about an 11-year-old girl, who was deaf or profoundly hard of hearing. She had cochlear implants at the age of 2 but never developed the ability to communicate verbally. One Summer she received extended school year services at the Kansas School for the Deaf, the parents liked that. They asked for her to be placed at the Kansas State School for the Deaf, the school denied that request.
- This went to due process and the hearing officer said that the district had failed to provide this child with a free and appropriate public education, and ordered the immediate enrollment in the school for the Deaf
- 22DP-001
 - This one is a child with escalating behavior and declining education or academic performance. He does have a 504 plan, but it is not working, and the teachers are complaining to the Assistant Principal.
 - The Assistant Principal responded by saying “Unfortunately, a lack of motivation isn’t a disciplinary action, so I can’t do much more than have a conversation.”
 - So, this went to Court, and even the teachers were testifying to this behavior
 - Teachers were testifying in Early December 2019. The Court stated that a district cannot ignore a clearly failing IEP.
 - When that happens, it is duty to meet and at least try something. The Failure to provide FAPE is when both sides are set stagnating. The student’s process is stagnating, and what the school is doing about it is stagnating.

Alternative Assessments

Cary Rogers

- This is an update on the 1% Threshold with has to do the alternative assessment with the most significant cognitive disability.
 - The 1% comes into play in the ESSA that was enacted in 2016.
 - SEAs must require LEAs that assesses more than 1% of its assessed students to submit information to the State justifying the need to exceed 1% threshold.
 - LEAs have to provide assurances that they are following the States guidelines for participation in the alternate assessment.
 - This is in regulation 34 CFR 200.6.
- If a child doesn't qualify for the alternate assessment is there an opportunity for parents to opt out of their child taking the state assessment?
 - There is a Special Circumstance code for parents to opt out that is available, however that does count against the district and the building for accountability purposes because the student is not being tested.

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- Another requirement with alternate assessments is, if an IEP team has determined that a student needs to that an alternate state assessment there are 2 why statements that the team must provide.
 - Must answer why the child cannot participate in the regular assessment and why that particular assessment is appropriate for that student.
- Data is shown all the way back to SY17-18.
 - SY17-18: ELA and Math above 1%, Science less than 1%
 - SY18-19: ELA, Math, and Science were all above 1%.
 - SY 19-20: Assessments were cancelled
 - SY20-21: ELA, Math, and Science were all below the 1%
 - SY21-22: ELA is at 0.94%; Math is at 0.94%; Science was 0.87%
- With the districts that have to provide justification we decided to help them out and provide them with their data, so they could provide better justifications. The data we provide is:
 - The number and percentage of students per subject
 - Data for each subject on the disability category so they can see exactly how many students in each disability category are taking the assessment.
 - Participation by subject Subgroup- disproportionality using risk ratio
 - Percentage of students performing at target or advanced on the DLM by subject.
- We also look at red flag data as part of our oversight with our LEAs
- We also implemented in 2020 the 3 levels of technical supports tiered system
 - Universal: includes online training and tools available for all districts; justifications and assurances required when they've tested over 1%.
 - Targeted Technical Assistance: Requires DLM training, review of what the district's data shows; student information sheets completed and submitted to KSDE; development of a plan, possible DLM test observations; justifications and assurances required
 - Intensive Technical Support: same as Targeted Technical Assistance plus the possibility of DLM test observations, and what the DLM test observations were with the targeted as well
- Question: Do you see the participation rates declining over the different grade bands (like more elementary than high school students taking the different DLM test) or are we seeing people phase off and move towards the general assessment?
 - We are seeing consistent changes, more so in the elementary. Part of that could be that we are really working with the districts that are on technical support. The issue at the secondary level is if that student has taken an alternate assessment since third grade, and they're currently a tenth grader, and they're still in a self-contained classroom, its real hard to move those students. However, there have

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been districts that have worked with us and said this student clearly with updated participation guidelines does not meet the eligibility.

- Any questions, please contact Cary Rogers; crogers@ksde.org.

Council Ex-Officio Member Updates

- **Families Together – Lesli Girard**
 - Families Together received some of the relief funds for KSDE, we have hired a few new people with those funds, including Lacey Reemer. We will start adding those to the report so you can see what we do with those specifically
 - There will be a position opening in Wichita that will focus on Transition aged kids, 13 and up
 - Lisa Howell is also new and works with kids in foster care ages 13 and up.
 - Continuing to see an increase in mental health and behavior calls.
 - Will change up the Annual statewide conference and add one or two team empowerment conferences
- **Kansas Association of Special Education Administrators (KASEA) – Ashley Enz**
 - The Kansas Special Committee on Education is holding a public hearing on November 10, 2022, at the Capitol Building.
- **Disability Rights Center – Mike Burgess**
 - KU received a grant that will support transition councils across the state, will support 8 of them.
 - Legislative Interim committee around the IDD waiver modernization, currently serving around 9,000 individuals, and 4800 on the waiting list. The wait is up to 10 years now.
 - The final settings rule (March 2023) that is when CMS final settings rule that specifies essentially that Medicaid funding has to be in the community, it cant be used in settings that isolate
 - A lot of effort around supported decision making
 - Today and Tomorrow there is a sequential intercept model work group meeting to develop recommendations. Hoping to create additional resources.
- **Kansas State Board of Education (KSBOE) Update –**
 - No updates
- **KSSD/KSSB-**
 - Will be attending our next meeting to provide an update.

Other Updates:

Special Education Advisory Council Meeting Dates 2022-2023

January 10-11, 2023

Topeka, KS

April 13, 2023

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Closing Comments

Items for Next meeting

- Contact Trisha or Bert or Kayla with any new items

Action:

Motion to Adjourn: Lena Kisner

Motion seconded: Marvin Miller

Meeting adjourned: at 11:33 am

The Kansas State Department of Education does not discriminate on the basis of race, color, national origin, sex, disability or age in its programs and activities and provides equal access to the Boy Scouts and other designated youth groups. The following person has been designated to handle inquiries regarding the nondiscrimination policies: KSDE General Counsel, Office of General Counsel, KSDE, Landon State Office Building, 900 S.W. Jackson, Suite 102, Topeka, KS 66612, (785) 296-3201.

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