

State Advisory Committee (SAC) For the Education of Children with Disabilities

Advising the NH Department of Education per RSA 186-C:3-b

NHDOE, Room 15

4:30pm – 7:00pm

June 1, 2016

Meeting Minutes

Attended: SAC Members

Maureen Tracey (Chair), Bonnie Dunham (co-chair), Violetta Lortie, Rep. Jack Balcom, Jean Parsons, Maureen Shields, Janet Reed, Anne Davis, Kestrel Cole-McCrea, Sue Marcotte-Jenkins, Candace Cole-McCrea, Lynda Thistle-Elliott, Janet Reed, Jean Parsons, Karen Rosenberg, Donna Curtin, Jack Curtin, Eileen Mullen-Kennedy, Maureen Shields, Heidi Cloutier

Guest(s):

Santina Thibedeau, Bureau of Special Education, Sarah Fox, Department of Health & Human Services
Greg Magoon, Department of Corrections

Welcome, Introductions of SAC Members & Guests

- Maureen began the meeting
- All attendees introduced themselves and stated their role. Elaina was introduced as the new recording secretary and that all emails and correspondence will now go through her.

Nominations:

No nominations

Approval of Minutes

- Approval of May 4, 2016 Meeting Minutes
Bonnie Dunham made the motion to approve the minutes; Karen Rosenberg seconded.
17 approved 4 abstentions. Motion approved.

Public Comment & Announcements

No public comments or announcements

Rules Updates

Bonnie reviewed her chart highlighting the proposed changes to the NH Rules for the Education of Children with Disabilities, and facilitated a discussion and SAC votes on each proposed change. It was agreed that SAC's public comments to the State Board of Education, to be written by Bonnie, would consist of those areas where SAC members were able to reach consensus. SAC's written comments are included below.

The following is a summary of the input that SAC voted at that meeting to provide on the initial proposal to Ed 1100. Unless otherwise indicated, the areas supported by SAC were determined based on a consensus vote (no dissenting votes) of the members present at the 6/1/2016 meeting.

Within these comments, when text from the initial proposal for Ed 1100 is included, or when changes are being proposed by SAC, for clarity, new (added) text that is being proposed is shown in bold italics (looks like: *new proposed text*). Text that is being proposed for removal is shown with a line through it (~~removed text~~).

SAC supports the proposed revisions listed below to update language, terms, and practices/programs in the *NH Rules*:

- **Ed 1102.01** (i) “Alternative dispute resolution” – Removal of “facilitated IEP meeting” from the list of formal alternative dispute resolution (ADR) options. While it is a valuable service offered by the Department, it is not a formal ADR procedure, and not subject to ADR requirement.
- Removal of the following two terms (the first is not a special education term, and the other no longer exists):
 - **Ed 1102.03 Definitions:** ~~(f) “Homeless child with a disability” has the meaning as detailed in 34 CFR 300.19.~~
 - **Ed 1102.05 Definitions:** ~~(g) “Youth Development Center” means a residential treatment center operated by the department of youth development services for adjudicated children.~~
- **Ed 1103.01(c), Ed 1109.01(a)(10), Ed 1109.01(b) and Ed 1111.01(b)** – Updating the term “vocational education” to “vocational education *and/or career and technical education*”. This revised language in these 4 sections is more reflective of the current language and options available to students with disabilities.

SAC supports the proposed addition of references to relevant NH laws and regulations, as well as the updated reference to the Federal Individuals with Disabilities Education Act, in the sections shown below:

- **Ed 1101.01** “Purpose” – SAC supports the updated reference to the Federal Individuals with Disabilities Education Act (IDEA), in this section, so that it reads, “The purpose of Ed 1100, adopted by the state board of education, is to insure that all children with disabilities have available to them a free, appropriate, public education pursuant to the Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. 1400, and [~~the final regulations of the U.S. Department of Education issued by the Secretary of Education on August 14, 2006;~~] *implementing regulations found in 34 CFR 300 et seq. and RSA 186-C:1.* [~~The further purpose of Ed 1100 is to adopt rules that are consistent with 20 U.S.C. 400.]”~~
- **Ed 1102.03** (g) “Individualized education program” (IEP) means “individualized education program” as defined in 34 CFR 300.22 *and Ed 1109.*

- **Ed 1102.03** (h) “Individualized education program team” (IEP team) means “individualized education program team” as defined in 34 CFR 300.23 *and Ed 1103.01(b) and (c)*.
- **Ed 1113.14** “The Length of the School Year” (b) The LEA shall provide a standard school year for children ages 6 – 21 as required by RSA 189:1 and RSA 189:24 [~~and~~ Ed 306.18-Ed 306.21 *and RSA 186-C:15, I*].

In addition to the proposed changes included in the initial proposal that add references to relevant NH laws, SAC recommends this type of change should be made in two additional areas, as shown below:

- **Ed 1102.02(n)** “Evaluation” means “evaluation” as defined in 34 CFR 300.15, [SAC recommends adding, “*and consistent with the requirements in Ed 1107*”].
- **Ed 1102.04(q)** “Related services” means “related services” as defined in [~~20 USC 1401 Sec. 602 (26)(A)~~] 34 CFR 300.34(a) [SAC recommends adding, “*and RSA 186-C:2, V*”].

SAC supports the proposed revisions for the following terms in **Part 1102** “Definitions”:

- **Ed 1102.01(y)** Core academic subjects
- **Ed 1102.03** (f) Independent educational evaluation
- **Ed 1102.03** (j) Individuals with Disabilities Education Improvement Act
- **Ed 1102.03** (m) Interpreting services for a child with a disability
- **Ed 1102.04** (q) Related services

Part Ed 1103, “Participants in the Special Education Process” – SAC members recommend an additional revision that was not included in the initial proposal. We request that language be added to Ed 1103.01(a), so that the composition of the IEP team is consistent with the definition of “Individualized education program team” in Ed 1102.03(h). Ed 1103.01(a) would then read, “The composition of the IEP team, for the purposes of Ed 1103, shall be as provided in 34 CFR 300.321 *and Ed 1103.01(b) and (c)*”.

SAC offers the following recommendations for Part Ed 1109, “The Individualized Education Program”:

- **Ed 1109.01(a)** “Elements of an Individualized Education Program” – SAC agrees with the removal of, “(11) A vocational education component for each child with a disability for whom vocational education is to be provided.” We understand that this removal does not in any way remove the option for a child with a disability to participate in vocational education, but rather treats vocational education as any other part of the child’s education (i.e. English, mathematics), for which the special education and/or related services the child requires in the class or activity is included in the IEP, but the class or activity itself does not become a separate component of the IEP.
- **Ed 1109.03** – SAC appreciates the revision that added text, “*The LEA shall provide special education, as defined in 34 CFR 300.39, related services, supplementary aids and services, accommodations and modifications to a child with a disability in accordance with the child’s IEP*”. This additional language makes the LEA’s responsibility in implementing the IEP very clear.

Part Ed 1107 “Evaluation” includes, as referenced in Ed 1107.04, Table 1100.1, “Required Assessments and Qualified Examiners by Type of Disabilities”. Below are SAC’s comments on Table 1100.1.:

- **Developmental Delay** – SAC recommends keeping the original language for the types of assessments required for a child suspected of having a developmental delay. Years ago, this language was updated so that it reads, “In order to identify a child as educationally disabled as the result of a developmental delay the IEP Team must determine that the child is experiencing developmental delays in one or more of the following areas: physical development; cognitive development; communication development; social or emotional development; or adaptive development.”. This should still be the language. In the initial proposal, a change in this language is indicated. Our

understanding from the Bureau of Special Education is that this change was made in error (it is the language in Ed 1100 on the General Court's website, but not on the NH Department of Education's website), and that they also support keeping this original language. Those who were involved when the NH Rules were last revised know that the language on the NH DOE's website is what was intended.

- Speech-Language Impairment – SAC agrees with the removal of “School Psychologist” from the list of qualified evaluators of a child’s communication skills under this category.
- Vocational Assessment – SAC supports the removal of this category from this table. While vocational assessments are very important, they are not a disability category, so do not belong in this table.

Part Ed 1108 “Determination of Eligibility for Special Education” – SAC makes the following recommendations, specifically to Ed 1108.01(b), which establishes additional required members of the IEP team at the meeting when the child’s eligibility is being determined::

- **Ed 1108.01(b)(2)** –SAC members agreed that the current language in Ed 1108.01(b)(2) “An individual knowledgeable about the child as a result of having had personal contact with the child in the school or, if the child is below school age, at another setting” is problematic. While consensus was not reached, more than 2/3 of SAC members voting at the June 1, 2016 SAC meeting recommended that rather than removing this language, as is proposed in the initial proposal for Ed 1100, the language be revised so that NH continues to require this additional IEP team member to help the IEP team at this critical juncture in the special education process to understand the child’s unique needs related to his/her disability, while allowing an exclusion under certain conditions, such as if the LEA could demonstrate that they could not identify such an individual, or if the individual was invited but declined to participate. To address the question of who is or is not “an individual knowledgeable about the child ...” as is required here, we agreed that it must be clear that if an individual has worked with or observed the child in school, or in a similar setting in the case of a preschooler, they would be considered to be “an individual knowledgeable about the child...” under this section. SAC does not have specific alternative language to offer to the State Board at this time.
- **Ed 1108.01(b)(1)** – While the initial proposal does not include any revisions to Ed 1108.01(b)(1) “A teacher certified in each area of suspected disability”, SAC heard concerns raised about fulfilling this requirement when there is no specific teacher certification for a given disability category. In practice, a general special educator, who is qualified to teach a child with the suspected disability, has been considered to meet this requirement. SAC recommends revising the language to reflect that very reasonable practice, so that Ed 1108.01(b)(1) reads, “A teacher certified in each area of suspected disability, *except: (i) if there is no teacher certification in an areas of the child’s suspected disability, a general special education teacher will fulfill this requirement.*”

Part Ed 1111 “Placement of Children with Disabilities” included numerous proposed revisions. SAC’s offers the following comments on the proposed revisions to this part:

- **Ed 1111.02** (previously Ed 1111.03) – SAC supports the updated language and references made in this section. Corresponding revisions were made to the Tables listing and describing the alternative educational environments for children ages 3-5 and 6-21.
- **Table 1100.2** (previously Table 1100.3) – SAC generally agrees with the revisions to this table, which lists and describes the continuum of alternative educational environments for children ages 3-5. This table replaces two tables that provided less clear, and sometimes confusing, information. While the revised table is much clearer and uses updated language, SAC has one recommendation that we believe provides additional clarity. The description for “service provider location”, says, “A preschool child with a disability receives supports and services from a service provider”. SAC recommends adding, “*at the service provider’s location*”.

- **Table 1100.3** (previously Table 1100.4) SAC supports the revisions to this table, which lists and describes the continuum of educational environments for children age 6-21. The revisions provide updated language and additional clarity.
- SAC agrees with the proposed removal of **Ed 1111.04**, as this is covered elsewhere
- **Ed 1111.03(b)** – SAC is pleased that added emphasis is given to “least restrictive environment” (LRE) for preschool children with disabilities. This is an age group for whom providing special education in the least restrictive environment poses challenges for districts, but can lead to tremendous benefits to the preschool children with disabilities who have the opportunity to learn with, model, and connect with their peers who do not have disabilities. The US Department of Education and NH Department of Education have also issued memoranda and advisories reviewing the LRE requirements in the Individuals with Disabilities Education Act and their applicability to preschool children with disabilities.
- **Ed 1111.03(f)** – SAC appreciates the Department’s inclusion in the initial proposal of this component to ensure that school-age children with disabilities who are receiving home instruction based on an IEP team’s placement determination, receive a minimum of 10 hours of specially designed instruction as required under current Ed 1111.05. SAC also agreed that the components of current Ed 1111.05 (proposed for deletion), that interject the superintendent into the special education placement decision should be removed. However, SAC members felt very strongly that other important components of current Ed 1111.05, including the right of the child to be provided with access to the general curriculum, to meet the goals in his/her IEP and to receive the related services in the IEP in addition to the minimum of 10 hour of specialized instruction, needed to be included in the new Ed 1111.03(f) in order to ensure that children with disabilities who are receiving home instruction are not deprived of a free appropriate public education or the other important educational rights. Therefore SAC drafted alternative proposed language for Ed 1111.03(f), which is shown on the next page.

SAC believes that our proposed alternative to Ed 1111.03 (see ★ below / next page) provides important protections to children with disabilities, clarity to parents and school districts, and complies with the requirements in IDEA, Section 504, and NH special education requirements. So long as our suggested additions to Ed 1111.03(f) are adopted, SAC members agree with the proposed removal of Ed 1111.05. If our suggested additions are not adopted, then SAC respectfully requests that the current Ed 1111.05(b) be retained.

The Current Proposed Language & SAC’s Proposed Alternative ↓

– **Ed 1111.03(f)** as included in the initial proposal for Ed 1100: *“Ed 1111.03 (f) Home instruction for children at least 6 years of age but less than 21 years of age shall minimally include 10 hours per week of specially designed instruction as specified in the child’s IEP so that the child will progress in the general curriculum as required in 34 CFR 300.320 and meet all IEP goals, unless the IEP team determines the child needs less than 10 hours per week.”*

★ – **Alternative language for Ed 1111.03(f)** as proposed by SAC: *“Home instruction for children at least 6 years of age but less than 21 years of age shall afford the student access to all content areas of the general education curriculum for which the student is eligible and be based on the student’s unique needs. Unless physical or mental factors, documented by a licensed practitioner, limit the student’s ability to participate, home instruction must minimally include 10 hours per week of specially designed instruction plus related services as specified in the child’s IEP so that the child will progress in the general curriculum as required in 34 CFR 300.320 and meet all IEP goals. Any home instruction placement made by an IEP team must comply with RSA 186-C:15.”*

Part Ed 1113 “Requirements for the Development and Operation of Programs for Children with Disabilities Administered by Local Education Agencies” – SAC’s input on the proposed revisions to this part are listed below:

- **Ed 1113.08** “Curricula” – SAC supports the proposal to remove the term, “preschool curriculum” and leave the term, “appropriate preschool activities”, as there is no established “preschool curriculum” and “appropriate preschool activities” aligns with the language in IDEA. SAC also agrees with the proposal to remove (c) & (d) from this section as these requirements are covered elsewhere.
- **Ed 1113.09**, “Equipment, Materials and Assistive Technology” – SAC appreciates the additional clarifying language that is proposed in (a), revising it to read, “Each LEA shall provide *in an appropriate and timely manner*, instructional equipment and materials adequate to implement the IEP for each child with a disability, as required by 34 CFR 300.105.”
- **Ed 1113.10**, “Class Size and Age Range” – SAC supports the proposed revisions in this section as they clarify the process and remove redundancies, making the section more reader-friendly.
- **Ed 1113.11** – “Facilities and Locations”, SAC members were concerned with the proposal to remove (c) – (f). While we agree that Ed 321.10 & 321.11, Minimum Standards address the issue of classroom size, but they do not include any requirements for “other instructional areas”, such as the areas where children with disabilities are provided with individual instruction or related services. SAC believes that retaining Ed 1113.11(d), “The physical space used for classrooms and other instructional programs and school activities for children with disabilities shall be of sufficient size to accommodate program modifications and accommodations necessary to implement the children’s IEPs and to provide for all other learning activities” would address this concern. We therefore recommend removing Ed 1113.11(c), (e) & (f), but keeping Ed 1113.11(d) as written in the current *NH Rules*.
- **Ed 1113.12**, “Personnel Standards” – SAC supports clarifying the role of paraprofessional personnel by adding (b)(5) and (c)(4).

SAC offers the following input regarding the proposed revisions to Part Ed 1114 “Standards for Approval of Private Providers of Special Education and Non-LEA Programs”:

- **Ed 1114.05** “Program Requirements” – In (b), which lists the components that must be included in written admission policies and criteria, a seventh component was added, “ *(7) Accessibility to educational materials*”. While SAC agrees with the intent of this addition, for clarity of purpose, we recommended rewording it to read, “*Appropriate accessible educational materials*”.
- **Ed 1114.07** “Behavioral Interventions” – SAC supports the addition of the reference to RSA 126-U (NH’s law limiting the use of restraint or seclusion in schools and facilities).
- **Ed 1114.21** “Emergency Planning and Preparedness” – SAC supports the following proposed addition: “*(e) Each private provider or other non-LEA program shall have written procedures for behavioral interventions that outline staff responsibilities with regard to procedures for personnel who are qualified and trained in behavioral crisis intervention response so that quick, organized responses can occur.*”

In addition to the revisions included in the initial proposal for Part Ed 1114, SAC recommends the following:

- **Ed 1114.07(b)** – This section establishes that private facilities and non-district programs must have a written statement of the policies and procedures followed by the program in managing student behavior, and the times when the statement must be provided to the sending LEA and the parent. SAC recommends adding “*and provided to the LEA and/or parent upon request*”.

- **Ed 1114.18 (g)** – In the section, which reads, “(g) In the case of the death of a child, a private provider of special education or other non- LEA program shall immediately notify the child’s parent(s), the sending LEA, the department, and the local law enforcement agency”, SAC recommends adding, *“In addition, in the case of serious injury or death of a child during incidents of restraint or seclusion, the responsible entity shall also notify the entities as required by RSA 126-U:10”*.

Part Ed 1115 “Educational Surrogate Parents” – SAC agrees with the majority of the proposed revisions in this section. We appreciated that the language was updated by the Department of Education in consultation with the Division of Children, Youth and Families, and that additional McKinney-Vento references added to ensure that these requirements address the needs of homeless children and youth with disabilities who need an educational surrogate parent. SAC’s comments on this section are listed below:

- **Ed 1115.01** – SAC declined to take a position on the proposed changes to this section. While we support the intent of the proposal, we thought that the language should be reviewed again for clarity and to ensure that it aligns appropriately with RSA 186-C:14(a) and (b).
- **Ed 1115.03(g)** – SAC would like to offer alternative language so that it conforms to RSA 186-C:14, III. While the initial proposal says for **Ed 1115.03(g)** *“A judge overseeing the case of a child, who may be or is a child with a disability, may appoint a surrogate parent for a child*, SAC recommends adding the phrase, “who is in the legal custody of DCYF” so that it reads, *“A judge overseeing the case of a child, who is in the legal custody of DCYF, who may be or is a child with a disability, may appoint a surrogate parent for a child.*
- **Ed 1115.03** “Investigation and Determination of the Need for a Surrogate Parent” – While the majority voted to support the revisions proposed for this section, several SAC members abstained from taking a position.
- **Ed 1116.04** – SAC recommends that the language be updated in this section (no revision is included in the initial proposal). **Ed 1116.04** uses the term, “natural parent” and references RSA 186-C, which in different places uses the terms, “natural parent” and “birth parent” presumably to mean the same thing. Given that the rights of a child’s parent(s) whether biological or adoptive, can be terminated, it would make sense to use the language in RSA 186-C:14, II(a): “Surrogate parent” shall mean a person appointed to act as a child’s advocate in place of the child’s biological or adoptive parents or guardian in the educational decision-making process”, or the proposed revised language in Ed 1115.04(b)(2)e “The child’s [~~biological mother and biological father~~] **parent(s)**, if known, and whose parental rights have not been [~~relinquished~~] **surrendered** or terminated”.

Part Ed 1119, “Confidentiality of Information” – SAC supports the proposed revisions in this part, with a particular focus on one section: SAC noted that the proposed revision made in Ed 1119.01 (was Ed 1119.02) was the result of the public early input sessions conducted by the Bureau of Special Education to proactively inform and seek input from the public even before they finalized the initial proposal for Ed 1100. The public engagement opportunities led by the Bureau were both recognized and appreciated. The proposed addition to Ed 1119 reads, *“(b) An LEA or private provider may destroy a student’s special education records upon the student’s 28th birthday. An LEA or private provider shall include notice of their document destruction policies upon the student’s graduation with a regular high school diploma or the transfer of rights (pursuant to Ed 1120.01) or whichever comes first. The LEA or private provider shall provide public notice of this policy at least annually.”* This addition provides a consistent standard that enable parents, adult students with disabilities, adults who were students with disabilities, school districts and private providers to have a clear understanding of when a student’s special education records may be destroyed by the LEA or private provider.

Ed 1120.04(c) – relating to “Parental Consent” includes some minor revisions in language, as well as a significant revision in the consent options available to parents. The proposed change would impact both

parents and school districts. SAC supports the update of the term, “denial of consent” to “refusal of consent”. However SAC members raised serious concerns with the proposal to remove the option of “consent with conditions”. In addition to their own input, SAC members shared concerns from the constituent groups they represent. While there was no disagreement that some revisions were needed, SAC members did not want to remove the option for partial consent, where a parent might agree with the majority of the proposal, but disagree with, or want to discuss further, one or two areas. SAC was very pleased at the Department’s proactive approach to work with stakeholders representing various roles/positions, to craft alternative language that would address the areas of concern. The input from the stakeholder group meetings was shared with SAC members. SAC voted to support the alternative language developed through a collaborative process with stakeholders and Bureau staff. (A few SAC members abstained from voting on this section, but there were no dissenting votes). The alternative option supported by SAC reads as follows:

Ed 1120.04 (c) Parents of children with disabilities shall have 14 days after the sending of written prior notice under Ed 1120.03 to sign documents included with the notice to indicate consent, [~~consent with conditions, or denial~~] *refusal of consent or partial consent as set forth below*. An LEA shall comply with 34 CFR 300.300 relative to parental consent.

- (1) A public agency may not use a parent’s refusal to consent to one service or activity or request of additional services or activities to deny the child any other services or activities to which the parent has consented.*
 - (a.) When the parent refuses consent to one or more of the proposed services or activities, and/or requests changes to services or activities in the initial proposal, the parent shall specify, in writing, the items that they are refusing or requesting.*
 - (b.) Upon receipt of a parent’s partial consent, the LEA:*
 - (i) May schedule a mutually agreeable time and date for an IEP team meeting;*
 - (ii) Shall, if requested by the parent, pursuant to Ed 1109.06(b) convene the IEP team to discuss the requested changes and/or additions to the IEP, except as set forth in (3) below;*
 - (iii) May refuse to convene the IEP team meeting if it determines that the requested changes and/or additions to the IEP have been addressed at a prior IEP tem meeting. In such event, the LEA shall issue a Written Prior Notice pursuant to Ed 1109.06(b)(3), explaining why the LEA refuses to convene the meeting.*
- (2) If a parent refuses consent for a proposed IEP or placement, the child’s most recent agreed upon IEP and/or placement shall remain in effect unless the LEA and parent agree otherwise, until the matters are resolved or a party files for due process pursuant to Ed 1123.*
- (3) A parent or a public agency may file a due process complaint on any of the matters described in 34 CFR 300.503(a)(1) and (2) and Ed 1120.04(a) (relating to the identification, evaluation, or educational placement of a child with a disability, or the provision of FAPE to the child), pursuant to 34 CFR 300.507.*

[Note: proposed (c)(1) and (c)(3) were part of the initial proposal; (c)(1)(a), (c)(1)(b), and (c)(2) were new, based on the input from the stakeholder group.]

Part Ed 1126 “State Department of Education Monitoring of Educational Services and Programs for Children with Disabilities” – SAC supports the following proposed revisions in this part:

- **Ed 1126.03 “Program Approval of Public and Non-Public Programs”** – SAC supports the revisions in (b) & (c) of this section; they were needed to reflect the changes in the monitoring and corrective action process. For findings of noncompliance, the Department of Education is now responsible for developing and monitoring the corrective action plans, and the program is responsible

for implementing the corrective actions. In this section, SAC also supports the revisions in (d) (formerly (e)), which make the definition of provisional approval stronger and clearer.

- **Ed 1126.04** “Waiver Process for Placements in Approved In-State Programs” – SAC agrees with the proposed revisions to (c) and (e) that both strengthen and clarify the requirements related to the waiver process.

Ed 1129.08 and **Ed 1129.12** – SAC agrees with the proposed changes in these sections related to Rate Setting and Allowable Costs. These revisions were very much needed in order for private providers, which are an important resource for NH’s children with disabilities, families and school districts, to remain viable.

The following are two areas where SAC wanted to provide input to provide to the State Board, but without specific recommendations or positions:

- After hearing the concerns that were raised about the proposed revisions to section **Ed 1117** Education of Children Placed in Homes for Children, Health Care Facilities, or State Institutions, and being made aware of the history of Ed 1117 (it was put into place in response to the James O. lawsuit, to ensure that court-involved children with disabilities who are placed residentially are not deprived of their right to a free appropriate public education), and being aware of the complexity of this issue, SAC decided not to take a position on the proposed revisions to this section at this time, but to instead support the Bureau of Special Education convening a stakeholder group involving representatives from the Department of Education, Department of Health and Human Services, Disability Rights Center-NH, and others to further review this section.
- While SAC decided not to take a position on the proposed changes in **Ed 1129.02(b)**, **Ed 1129.09(j)(5)**, and **Ed 1129.17**, which would shift rate setting for room and board for students with disabilities in residential facilities to the Department of Health and Human Services, we are concerned about how this change will impact private providers. It will effectively amount to a rate cut for affected private providers. SAC heard that such a rate cut, which could be significant for some programs, may prevent them from continuing to provide this option, and lead to NH school districts having to instead pay placement in out-of-state programs for children with disabilities needing that level of special education placement.

SAC discussed the following sections, but did not vote to take a position on them, or we did not reach consensus:

- **Ed 1113.15** “The Length of the School Day” (the initial proposal removes (b) & (c))
- **Ed 1127.01(a)** (the initial proposal removes text, as shown: “Children in placement for which DCYF has financial responsibility” means all children receiving special education or special education and related services whose placements were made pursuant to RSA 169-B, RSA 169-C or RSA 169-D, except children [at the Philbrook center while] awaiting disposition of the court following arraignment pursuant to RSA 169-B:13.)
- **Ed 1129.21** “The Joint Rate Setting Process” (the initial proposal removes this section)
- **Ed 1129.22** “Joint Rate Notification” (the initial proposal removes this section)
- **Ed 1129.23** “Hearing Mechanism for Jointly Set Special Education Rates” (the initial proposal removes this section)

In addition to the corrections made by the Department (i.e. spelling errors, wrong citations, or missing or misplaced words), SAC voted to recommend corrections in the following areas, as indicated below:

- **Ed 1102.01(p)** “Chartered *public* school” means “chartered *public* school” as defined in RSA 194-B:1, III.

- **Ed 1102.01(u)** “Child eligible for special education but not currently receiving services” means a child who has been evaluated and determined to be **a** child with a disability who is not currently receiving special education services due to one or more of the following factors: ...
- **Ed 1102.04 (b)** “National Instructional Materials Accessibility Standard” (NIMAS) means the standards defined in 34 CFR 300.172[~~3~~]
- **Ed 1109.01(a)(9)** A statement of how the child’s progress toward meeting the annual goals will be measured and whether progress is sufficient to achieve the annual goals by the end of the school year; **and**
- **Ed 1109.04(b)** The LEA shall maintain written evidence documenting implementation of the IEP, including, but not limited to, the following: ... (3) Program[s] modifications made; and ...
- **Ed 1113.03(f)** Home instruction for elementary and secondary students shall be provided in accordance with Ed 1111.[~~05~~]**03(f)**.
- **Ed 1114.05** Program Requirements
(b) The written admission policies and criteria required in Ed 1114.05(a) shall include: ...
(5) Criteria for discharge; [~~and~~]
(6) Any preplacement requirements for the child, the parent, and/or the placing agency; **and**
(7) **Accessibility to educational materials.** [**#7 was added in the initial proposal**]
- **Ed 1115.03(e)** The notice under Ed 1115.03(d) shall include:
- **Ed 1123.22** Post-hearing Matters. (a) The decision of a hearing officer shall be implemented immediately, except as provided in Ed1123.23, unless a delay is agreed to in writing by both parties, or one party files a timely appeal under 34 CFR [~~3005.16~~]**300.516(a)** to a court of competent jurisdiction. ...
- **Ed 1126.04** Waiver Process for Placements in Approved In-State Programs. (h) The private provider of special education for whom the department establishes rates pursuant to Ed 1129 and who chooses to accept a student under Ed 112[~~9~~]**6.04(c)(2)** shall have their approved rates adjusted for the balance of the fiscal year.

Update from the Bureau of Special Education ~ Santina

Meeting overran no time for Bureau updates

New Business, Emerging Issues, Announcements, Current Events, Public Comment

Maureen Tracey was nominated for the Chair for 2016-2017 motion was made by Bonnie seconded. All in favor

Jack Curtin will be reading his book at the Toadstool Bookstore.

Heidi Cloutier

[2016 Conference on School Culture, Climate and Positive Behavior Support](#)

Date: August 11-12, 2016

Time: 8:30 am - 3:30 pm

Location: SERESC Event & Conference Center, 29 Commerce Drive, Bedford, NH

7:24 pm Janet Reed made a motion to adjourn, Heidi Cloutier seconded. All in agreement. Motion passes.

Next meeting ~ Wednesday, September 14, 2016 8:30 am to 3:30 pm ~ PSU