

State Advisory Committee (SAC) for Children with Disabilities
Advising the New Hampshire Department Education per RSA 186-C:3-b

February 3, 2021
4:30pm – 7:00pm

Via Zoom

In Attendance:

Lisa Beaudoin (chair), Bonnie Dunham (Co-Chair), Kevin Cushing, Kari Grimes, Dale Boyle, Tina Greco, Gregory Magoon, Maureen Shields, Kerri-Lynn Kimner, Christopher O'Reilly, Janet Reed, Moira Ryan, Esther Kennedy, Melissa McKeon, Tracy Walbridge, Jennifer Blagriff, Leah Lucier-Pike, Jennifer Blagriff, Gordon Muench, Jill Hartmann, Karen Rosenberg, Lewis Bellows

Absent:

Violetta Lortie, Susan Rasicot, Mike Pinard, Elizabeth (BeBe) Casey, Meghan Cullinane, Anna Barrows, Senator Jean Dietsch, Representative Glen Cordelli, Senator Jay Kahn, Thomas Ryan, Jason Henry, Sandi Raeuchle

Guests:

Rebecca Fredette, Administrator, Bureau of Student Support

Diana Fenton,

Stephen Berwick, Coordinator of Dispute Resolution

Maureen Tracy – parent of a 24 year old

Becky Owens - hopes to fill home-schooling parent seat. Parent of a child with a disability and a former State representative

Tiffanie Capone – a non-attorney special education advocate here to observe. Has a child with disabilities.

Welcome:

Lisa Beaudoin (chair) began the meeting at 4:30pm. Welcome to the meeting.

Diana Fenton and Stephen Berwick have joined the SAC to provide information to the SAC members regarding Due Process and Mediation.

Stephen – what is the SAC looking for? Questions around Due Process and Mediation?

I am the Coordinator of Dispute Resolution and Constituent Complaints, not a special education expert, role is Complaints, not special education complaints or for educator misconduct complaints, Hearings, State Board, any type of hearing and now the respondent for COVID-19 complaints come in against school districts.

Lisa – would you please explain to the SAC members as to what the process is, describe the IEP Due Process and how do the processes actually work.

Stephen – if a parent requests a hearing, within couple of days a prehearing conference, a hearing and a mediation are set up. Unless the parties opt out of it, we set up medication as well.

Becky –all Due Process Hearings decisions are posted on the web site and are current, I have posted the link in the chat box.

<https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-support/special-education/due-process-hearings-date>

Lisa – I believe the Rules are formally written in New Hampshire is that SAC needs to be formally given, not a link.

Becky – there has not been one since 2019, which is why the link has been given for SAC to review. Nothing new since June of 2019.

Steve – I have been here for 35 years and not sure how the SAC has been provided this information, is not done by this office, we provide on the website and have been advised this is acceptable by the SAC.

Bonnie – we have been doing this for quite a while. Many years ago, there were sub-committees looked at dispute resolution options, including due process and may have received more information for the sub-committee work and having more than one due process hearing every two years.

Question:

With all the issues people are experiencing, why do you think the numbers are so low?

Stephen – personnel feeling when IDEA changed back in 2004, prior to that we had many hearings, because parents could easily enter the due process, weren't made to go through resolution sessions. In 2005, we had IDEIA, parents had to request a hearing, had to have a resolution session, unless both parties agreed not to do it. The problem is the way changes came about, making harder for parents to meet the minimum requirements for due process.

Question:

Are there many due process hearings that have been filed, but do not end up on the website, because they are resolved or withdrawn prior to a hearing?

Stephen – during fiscal year 2020 – out of 38 cases, 3 that came to a decision, 3 dismissed and 21 mediated successfully, 1 is ongoing, 3 were resolved locally, 1 settled, 1 summary judgement and 5 were withdrawn.

Question:

Why are the school district names redacted in the publication of the due process hearings?

Stephen – that was a decision made by Commissioner Barry, because we are a small State and sometimes there are unique issues, it would be easy to track down who the student was, ensures additional protection for parents.

Question:

The reach of private law firms into the IEP Team meeting process at the early stages and the impact on the quality of IEPs and students IEP and related services. Is the Department receiving any complaints from parents about undue influence in their student's education on the part of law firms over representative and influence?

Stephen – I am not hearing it from the hearing perspective. Diana has not heard of it either.

Question:

If a parent was going to file for Due Process during the pandemic, how would this be handled?

Stephen – Hearings are being held, are being done via Zoom, telephonic and in person, as the hearing room can be opened up. The official record is the recording of the meeting.

Question:

Changed the way handled Due Process based on the reauthorization of IDEA in 2005, it that what other States are doing.

Stephen – New Hampshire use to be a part of NERRC attending regional meetings. As we understood it, we were one of the leaders in the way we moved forward with IDEA.

Question:

Did it seem when you were attending the regional meetings, was it harder for parents to access due process in New Hampshire than in other States?

Stephen – No, this is not what I heard. What is hearing is that parents are having a hard time finding representation.

Question:

What percent of parents do you think are unrepresented at Due Process hearings?

Stephen – I think it is 50/50; 50 percent of parents have representation and 50 percent do not.

Question:

You use to do annual informational trainings, where information shared with attorneys and hearing officers. Are you planning to do that again?

Stephen – Yes, we are discussing about a meeting; how to proceed during the pandemic.

Diana – Internally we have been having quarterly meeting with hearing officers, to discuss issues that come up within meetings, results of meetings and representative of the Department not the hearing officers. This is an ongoing project.

Lisa – Becky please ensure that SAC gets a copy of the memo that Stephen mentioned. Mediation Protocol and LEA Resolution Sessions as part of Special Education Impartial Due Process Hearings

Stephen – I will locate, was issued six to seven ago.

Lisa – Moira, you have written in the chat a violation of the law, so we can be sure of what you are referencing.

Moira – a parent did a Due Process where the school district introduced a mediation agreement from a previous issue at the IEP meeting. Feel is a violation of IDEA. Who trains the hearing officers and how are they trained?

Stephen – Up to the parties at the pre-hearing conference to talk with the hearing offices about and to when the witnesses are allowed in the room.

The hearing officers are all attorneys and have had 20 years of experience, and having training outside to maintain their law license, Diana and I meet with them quarterly to do training and department expectations are, they are not only doing special education they are also doing vocational rehabilitation and a variety of other educational type hearings.

Question:

What can SAC do to help the Department develop the brochures from a parent's perspective?

Come back and share with SAC when developed. Trying to make the process more parent friendly and accessible. Likely to be a resource to rely on.

Stephen – I appreciate that and you are more than welcome to e-mail your thoughts. Is a continuous process improvement.

Esther - thank you for coming today.

Both parents and school districts are in need of education on the process. I would encourage educating the school districts along with the parents.

Melissa and Esther would be happy to assist on the school side for brochures/manual and anything we could do as SAC we would appreciate that.

Question:

Fiscal year 2020 numbers, important for all to know and to get this information out, and think it is important to know how many parents had representation.

Stephen – is not easy to find that number and we do not have reports on that. Will take under advisement.

Lisa - Can you send us a short document of what you have told us verbally?

Stephen – the number of hearings, absolutely.

Lisa – Can you go back three (3) years for the newer members of SAC to see?

Stephen – Can go back to 2012.

Lisa – Can you give us a few dates for a SAC subcommittee to meet with you on that parent lens on the document reviews?

Stephen – deferred to Diana. Diana will provide dates.

Lisa – do you think that the other dispute resolution options of mediation, neutral conference, etc. have increased with the decrease of due process hearings?

Stephen – the number of requests for due process and for mediation there were 21, so I do sense people are trying to resolve.

Historically, the numbers have gone down.

Karen – Perhaps user guides to assist parents “What to expect in Due Process?” “What to expect in mediation?” break it down for parents, most important and timely wise.

Diana – this is what we are envisioning. Quick and simple brochures.

Media and outreach accessibility for parents?

Diana – may be available to meet with a subcommittee group the first week of March. Wednesday, March 3rd, will work for Stephen also.

Lisa proposed Monday, March 1st at 4:30pm. Will get back to you with subcommittee members. Prior to the meeting, SAC members should go on the DOE website and review the User’s Guide for Due Process.

Thank you to Diana and Stephen

[Return to SAC Agenda](#)

SAC members introduced themselves and their role on the Committee.

Approval of January 3 2021, 2020 SAC Meeting Minutes

Any questions, comments, discussion?

Maureen Shields, asked the Commissioner: will parents have access to Compensatory Education, as they did in the spring, for services that were not provided as a result of remote instruction in this current school year?

The Commissioner responded “yes.”

Tracy Walbridge amend her question to Rebecca regarding the GEER funds, not for the services for the money to be given to districts.

Becky would check on this due to specific information to students.

Motion made by Bonnie to approve the Minutes as amended; seconded by Melissa.

19 approved, 2 abstentions, 0 opposed. Motion is carried.

Public Comment:

Moira - at a prior meeting PIC was listed as a resource for mediation and due process, should be changed to reflect they are resources for information, not procedures.

- Up to the agency as to what their services are, we can take your feedback. Taking under advisement.

Tiffanie – I have received feedback in interaction with people who have worked with PIC and feel that they are going to have someone from PIC going to meetings with them. Need to be clearer that PIC is a resource, not a representative from PIC going to meetings.

Agree that agencies are responsible for advertising what their services are; if causing confusion to the public will need to look on how we can better present ourselves.

DOE lists both a resources for information; they are resources for information, but not a resource where you are going to go and get an attorney.

Lisa –

Rebecca, will you take this under advisement and circle back to SAC and tell up what your Bureau and the Commissioner have to say about this?

Bureau update from Rebecca Fredette, questions:

The Bureau submitted the State Performance Plan (SPP) / Annual Performance Report (APR) to OSEP on Monday. We will now be waiting on comment from OSEP regarding that and if any corrections we need to make.

We have been looking at legislation and attending hearings and finishing up with fiscal notes and attending the meetings as a resource if anyone has questions of us.

We sent out letters of intent to spend to all districts for their 18-19 and 19-20 IDEA grants as they both expire in September 30th of this year. Supporting of districts to ensure they can spend all these funds.

Working with the NHSEIS stakeholders to develop some guidelines for them. NHSEIS Stakeholders for had been developed to help us with the development of NHSEIS, now moved to best support schools and families moving forward remaining compliant for what we need for special education information.

The Bureau is providing free webinars via Zoom to the field on Written Prior Notice, Specially Designed Instruction and Measureable Annual Goals and using the NHSEIS system.

Testing, we report that no testing was done, Moira, because of COVID, waiting to hear from OSEP, they know that most States canceled testing in March and April of last year.

Question:

Will the State lose money due to no testing?

Response:

As far as we know, will not lose funding as this is happening nationwide, many States were not able to do their statewide assessments.

Question:

Did the Bureau have to submit testimony on HB 20?

Response:

Which is HB 20? Voucher Bill

We have not be asked to provide testimony, having conversations with the Commissioner and question on impact on special education, have questions out to OSEP on how that looks if a student goes to a public school with that funding and the impact.

Lisa – would you please inform SAC, within a day or two, if the Bureau is going to submit testimony in support of HB 20.

Becky – I don't believe our Bureau will provide testimony in support, we tried to remain neutral, and would answers questions and provide facts, but we would not be asked for an opposition or a support.

Legislative Update from Bonnie Dunham, legislators

HB 20 Voucher Bill

- 600 people support the bill
- 3,198 oppose the bill
- 5 checked the box they were neutral

HB 96-FN-A Establishing the office of school counseling and psychology, establishing the position of school counselor coordinator,

HB 215 - permitting school districts to contract with independent schools and private schools in New Hampshire or another State.

HB 455 - relative to the ability of a parent to enroll a child in the public school of their choice.

HB 581- relative to the burden of proof in special education hearings.

HB 220 - establishing medical freedom in immunizations. Not a special education bill, however, has implications that people need to think about.

If SAC members are interested in see Bonnie's testimony on HB 20 you may e-mail her at bsdunham12@gmail.com.

Question:

Is the HB 455 Manifestation of Education Hardship bill?

Response:

No, there are other bills for Manifestation of Education Hardship.

Does SAC want to send an advisory about HB 20 to the Commissioner; we want to be on record that we have expressed our point of view as a committee.

Suggestion: SAC members submit their concerns regarding HB 40, developing a list for consideration in speaking to the Legislature.

Lisa will draft some concerns that were shared in the HB 20 discussion. If anyone has thoughts, please send to Lisa.

**Update: mask subcommittee; remote instruction subcommittee; solutions for workforce challenges
Lisa called HHS yesterday to talk with someone for direction, Cheryl Nielson. Sent her the minutes from the Sub committee minutes and the question of DOE/DHHS design a rubric making reasonable accommodations for using masks.**

Mask subcommittee decided to put together a flyer that would explain in a way for parents to understand what reasonable modifications are and how to request those if your child cannot fully comply with mask wearing. Put together a draft flyer and Karen will send to Lisa.

Lisa has not forwarded to the Commissioner yet, will send a flyer that explains the right to ask for reasonable accommodations for mask wearing.

SAC members requested a copy of the flyer to be aware of it.

SAC needs a clarifier when committees going out a working on something, when should a it come to the whole SAC and when does it not. As a member of SAC, when it goes from SAC it has our endorsement with it and we need to discuss a protocol around this.

Maureen Shields – Update on Comp Ed

We are still working on, going to have another meeting to tie up some of the language and send to the SAC prior to being sent to the Commissioner.

Organizational points:

New norms for SAC Meetings

- Do not use the chat for sidebar conversations. Limit to questions.
- Encourage subcommittees to make set a date/time for their next meeting at the beginning of the meeting.

Stephen Berwick has offered to meet with a subcommittee on March 1st at 4:30pm. Anyone interested in participating: Moira Ryan, Jennifer Blagriff, Kari Grimes, Bonnie Dunham, Kevin Cushing, Esther Kennedy, Tracy Walbridge

Nominations, Old Business, New Business – Announcements, Comments

Nominations

Janet nominated Maureen Tracey, seconded by Kevin. Parent representative.
Maureen is a formal member of SAC and held the position of Chair.
19 in favor, 2 abstentions, 0 opposed.

Becky Owen would like to be nominated as the Homeschool Representative.
Becky is a former State Representative, has six children, homeschools had one child with a disability.
Bonnie nominated Beck, seconded by Tracy
All in favor, 0 abstentions, 0 opposed.

Public Comment

Able NH is offering a free 30th celebration of the Laconia State School. February 18th – 7pm Dick Cohen will be one of the panelists. Lisa will send a flyer to SAC for distribution

Karen made a motion to adjourn, Bonnie seconded. All in favor
Meeting adjourned at 7:15pm

Next meeting

Wednesday, March 3, 2021 | 4:30pm-7:00pm

Via Zoom

https://us02web.zoom.us/meeting/tZ0rce6vpz0oHdHVBBaoi1sCln9taDxrP2mE/ics?icsToken=98tyKuGhqD0tHd2Tsh6CRpx5Bl_oKO3xmCFBgqd1qj3HAI9aMxDVH-wbJrNbCMrg

Join Zoom Meeting

<https://us02web.zoom.us/j/89667796275>

Meeting ID: 896 6779 6275 +1 646 558 8656

Appendix | Conversations within the Chat

Moira Ryan:

This is not true. Confidentiality is required by IDEA and NDA with a gag clause is not which is what the parents are being presented with

Moira Ryan:

In addition, I had a case come to me recently where the mediation agreement was brought AGAINST the parent

Moira Ryan:

and the HO did not disqualify it

Moira Ryan:

which is a violation of the law

Moira Ryan:

those extra staff should not be in the room only the LEA

Moira Ryan:

otherwise, it affects their testimony

Moira Ryan:

Who does the training for the hearing officers now?

Bonnie Dunham:

Isn't it up to the parent to decide whether the hearing is open or closed?

Moira Ryan:

YES

Moira Ryan:

someone did just have a public hearing open to the public

Bonnie Dunham:

My question is just whether the other dispute resolution options (mediation, neutral conference) have increased as the # of DP hearings has decreased

Tracy Walbridge:

IDEA states parents must be given a right to a public due process hearing

Tracy Walbridge:

300.512 Hearing rights

Moira Ryan:

Lisa, why don't you get those docs too

Moira Ryan:

School districts have unlimited taxpayer funds and attorneys

Moira Ryan:

parents don't have any resources in their corner

Bonnie Dunham:

Most schools would prefer not to spend their time and resources (including personnel) on attending DP hearings, but in terms of resources, parents generally are at a disadvantage the last due process I went to the school district brought 6 staff and 2 lawyers

Moira Ryan:
not including the LEA

Rebecca Fredette:
Link to the Alternative Dispute Resolutions: <https://www.education.nh.gov/who-we-are/division-of-learner-support/bureau-of-student-support/special-education/due-process-hearings>

Tiffanie:
When is the next education committee meeting or where can I find that information.

Moira Ryan:
I think we should ask for the data on types of special ed complaints

Tiffanie:
I would like to comment

Moira Ryan:
What are being used as proficiency rates for the SPP? APR since there was no testing last Spring? Will they be using fall testing?

Moira Ryan:
ok, ty

Moira Ryan:
will the state lose funding bc no testing?

Moira Ryan: OK, good

Maureen Tracey:
Hello Everyone, I have to leave this meeting but I am hoping to join the committee again. I previously served on the SAC for 10 years and it was a great learning experience. I have been helping families who are struggling with remote learning and special education and I am really interested in joining sac again to help with problem solving. This is my second meeting.... If I am voted in to the SAC, I can change my schedule for the remaining meetings.

Moira Ryan:
Is that the MEH bill?

Bonnie Dunham:
bsdunham12@gmail.com

Moira Ryan: Maybe you could say what you're proposing?

Tracy Walbridge:
I have a different opinion on HB 20

Moira Ryan:
I think I have a question if there are kids who aren't getting services and the parents want a different placement to improve their outcome, how would you address something like that if they were going to use this bill to achieve that?

Moira Ryan:
and in instances of bullying

Moira Ryan:
of special needs children

Tiffanie:
Thank you for having me. I hope to join again soon.

Bonnie Dunham:

I would suggest noting that we have concerns about the financial impact of the bill on public schools and the effect that it may have on the students who remain in the public schools; and the lack of prohibition against funding going to a program or entity that discriminates against children on the basis of disabilities. We may also want to recognize that there are challenges that children and their families are experiencing at this time, and that we would be happy to participate in strategizing solutions to each of those issues.

Moira Ryan: Bonnie I have a kiddo who was bullied because she took classes in the "sped" room

Moira Ryan: she was called the R word and bullied mercilessly

Moira Ryan: mom wants her to go to another public school

Moira Ryan: bc the environment is untenable

Moira Ryan: would you like me to refer mom to you to help her get a solution?

Lisa Beaudoin: thank mom needs to be connected to ABLE NH

Tracy Walbridge:

I respectfully disagree. parents need choices. how about noting the concerns of the long term impact on students with past data in the current system.

Lisa Beaudoin: Moira, yes.

Tracy Walbridge:

money is always spoke about never the long term outcomes.

Moira Ryan:

Yes, she did win her MEH and can't get acceptance at another school

Tracy Walbridge:

students do not get the services now. and the public schools have no accountability

Moira Ryan:

we have been getting ready for more, but it would probably be beneficial for her to have more in her corner

Moira Ryan:

Um, the super just hired in Nashua was fired for violations from his previous job, so the criminal background check is meaningless...even the super from the Concord district can get her edu license back in 24 months. I don't consider her suitable for ANY school job

Moira Ryan: yes, you're right

Moira Ryan: Medicaid rate is the lowest rate

Moira Ryan: but it's dirt

Bonnie Dunham:

Just for clarification, to make sure that everyone fully understands what is encompassed in the "public school system". There are some existing choice options within the public system, including traditional public schools, chartered public schools, career and technical education programs, ELOs and Learn Everywhere, as well as a change in public schools through the manifest educational hardship law.

Moira Ryan:

I support inclusion but there are many parents who don't like it

Moira Ryan:
especially in Manchester

Moira Ryan: specifically bc of bullying

Moira Ryan:
they have said repeatedly at meetings that they want their kids separated because they get mercilessly picked on

Moira Ryan:
and it absolutely does decrease their ability to earn a living wage

Bonnie Dunham:
Given that there is not universal SAC opinion on the bill, I would suggest that SAC focus on the areas where we have concerns about the impact on children with disabilities. While I personally am strongly opposed to the bill, that approach would give the legislators a chance to hear the concerns and perhaps decide to make changes so that if it does pass, it is not as harmful.

Lisa Beaudoin:
Tracy, this bill doesn't fix that the very problems you're discussing.

Gordon Muench:
the districts can be held accountable unfortunately it takes patience.