



KENTUCKY DEPARTMENT OF EDUCATION

State Advisory Panel for Exceptional Children

SUMMARY

JANUARY 18, 2024

ATTENDANCE: David Bradley, Lacheena Carothers, Tiffany Clark, Jeffrey Coles, Tal Curry, Zachary Stumbo, Emily Fox, Tonika East

MEMBERS ABSENT: Ashley Barlow, Tracy Brewer, Amy Beth Crump, Tammy Gilles, Jason Jones, Brittany Kleiner, April Miller, Michelle Morgan, Chadwick Noel, Tyler Reed, Cathy Jo Robinson, Jeannie Ward.

SUMMARY:

Agenda Item: Membership Update

Presenter: Melody Cooper

Summary of Discussion:

The panel currently has 12 vacancies, increased by one with the resignation of Secretary Danny Slaton. There are eight current members whose terms will expire on June 30 of this year. KDE's Misty Green, ed academic program manager, Office of Special Education and Early Learning, will be in contact as the expiration date approaches to get a count of members who want to continue to serve.

The governor's office is aware and on top of the fact that there are several vacancies and according to the director of Government Relations the panel should not expect any new appointments while the current session of the General Assembly is active.

Agenda Item: Review and Approval of Meeting Minutes

Presenter: Tonika East, Chair

Summary of Discussion:

The panel noted two needed corrections to the October meeting minutes.

Corrections: An update to the footer to reflect the correct meeting date of Oct. 19, 2023. An update to a quote from member Barlow, update from "students are acting too quickly to remove students" to "schools are acting to quickly to remove students."

Feedback:

Bradley made a motion to approve the minutes, second by Jeffery Coles. October meeting minutes were approved.

Agenda Item: Public Comment

Presenter: Tonika East, Chair

Summary of Discussion:

A call was made to open public comment. No persons presented during open comment.

Feedback:

The panel once again discussed the various ways parents and community members can be notified of the opportunity for public comment.

Follow-up Required:

The social media committee made plans to share upcoming meeting and public forum opportunities.

Agenda Item: Election of Officers

Presenter: Tonika East, Chair

Summary of Discussion:

A review of open positions of vice-chair and secretary. East reviewed the roles and duties of each position. Bradley was nominated (unopposed) for the position of vice-chair. Emily Fox was nominated by Bradley (unopposed) for the position of secretary.

Feedback:

The panel voted to confirm the election of Bradley to vice-chair and Fox to secretary.

Agenda Item: Legislative Update

Presenter: Melody Cooper

Summary of Discussion:

Deadline for the introduction of new legislation, House deadline is Feb. 26 and the Senate deadline is Feb. 28.

Cooper brought attention to the following bills:

- House Bill 114: Governor's proposed budget.
- Senate Bill 8: would change the Kentucky Board of Education membership to be elected instead of appointed.
- Senate Bill 11: requires notice to schools prior to filing a public offense petition against a child.

- Senate Bill 181: makes changes to school bus specifications, loosening up some of those requirements for districts that would align more with the other states around the U.S.
- Senate Bill 38: proposes providing free feminine hygiene products for elementary and secondary students.
- Senate Bill 95: provides reasonable accommodations to a lactating student.
- Senate Bill 98: proposes the student member of Kentucky Board of Education become a voting member.
- House Bill 41: replaces restrictions for immunization incentivization.
- House Bill 96: introduces reflections and moments of silence at the opening of the school day.
- House Bill 108: tiered approach for accountability for English learners.
- House Bill 158: Recommendations that require that districts have policies and instruction in teacher preparation programs regarding dyslexia.
- House Bill 191: relating to any materials, programs or events that are alleged to be harmful to minors, addresses discussing those materials during local board meetings and how that would, how that would occur.
- House Bill 208: constitutional amendments related to school funding and really being able to use public school public dollars to fund educational efforts that are outside of the public-school domain.
- House Bill 214: act to safeguard all individuals within the state from discrimination because of the person's status as an individual with an intellectual or developmental disability, protect the individual's interest in personal dignity and freedom from humiliation.

Cooper also provided a brief synopsis of the budget and specific funding sought by KDE.

Feedback:

Members thanked Cooper for the overview and notes of interest in the current legislative session.

Agenda Item: Due Process Update

Presenter: Carol Ann Morrison

Summary of Discussion:

Discussion of agency case number 232407. According to the due process complaint that came in in March of 2023, the student was overheard discussing that he had a gun in his vehicle on school property. The vehicle was searched and two guns were in the vehicle on the property. The guns had been left inadvertently in the vehicle from a hunting trip over the weekend but based on the zero-tolerance policy at the school, the student was expelled after having an expulsion hearing on March 14, 2023.

In May of that same year, the student's mother referred the student for special education services. The referral came in after the school had been dismissed for summer break and in this case the hearing officer determined that the district did not have a basis to suspect that the student might need special education services prior to the mother's referral. She claimed that at the time of the incident that led to the expulsion in March, the student was not identified with a disability and the district had no reason to suspect that the student had a disability until the mom

referred that student later in May. The student was diagnosed with attention deficit hyperactivity disorder (ADHD) on July 10 of that same year and the mother signed consent for a special education evaluation on July 24.

The district completed an expedited evaluation and had an individual education program in place for the student by Sept. 25, which was 31 school days from receipt of parental consent. There were several allegations that were made in this due process complaint that were addressed by the hearing officer. Those include *allegations that the students' expulsion was arbitrary and motivated by bad faith and show the conscience the district staff failed to identify the student for special education services and violation of the law prior to expulsion. The district failed to expeditiously evaluate the student and had an Individual Education Plan (IEP) in place at the beginning of the school year. The district denied the student the right to assert disciplinary protections under Individuals with Disabilities Education Act (IDEA) and the district refused to perform a manifestation determination. The district was interfering with the student's placement decisions regarding least restrictive environment and school district staff have been restricted from interacting with the mother.*

The hearing officer heard both sides of these allegations but did not find the allegations to be true. He ruled in favor of the district and dismissed all the allegations with prejudice.

Feedback:

None

Agenda Item: Indicator 4 Proposed Changes

Presenter: Carol Ann Morrison

Summary of Discussion:

Discussion of two of the specific indicators that are included in the State Performance Plans/Annual Performance Reports (SPP/APR) and those are indicators 4A and 4B. The indicator is the percentage of local education agencies, with significant discrepancy in the rate of suspensions and expulsions of greater than 10 days in a school year.

Currently, for significant discrepancy under Indicator 4A, it's Local Education Agency (LEA) that have a rate of out of school removals of students with IEPs at least three times higher than the state rate for the same type of removals, and the LEA has to have at least 50 students with IEPs within their LEA. Under 4B, the percent of LEAs with a significant discrepancy by race or ethnicity in the rate of suspensions or expulsions of greater than 10 days in a school year for students with IEPS.

In February of 2023, the Office of Special Education and Early Learning programs reviews the submission and provides feedback or comments the panel as they determine necessary. They noted that the states chosen methodology results in a threshold for measuring significant discrepancy in the rate of long-term suspension and expulsion rates of children with IEPS that falls above the median of thresholds used by all states that use a rate ratio.

Currently the threshold is 3.0. The information that OSEEL received from Office of Special Education Programs said that the threshold is higher than the median of all other states. OSEEL has two options: 2.25 or 2.5.

Feedback:

Members urged the team to uphold consistency to thresholds and options that would allow the team to “dig-deep” in their research. Advisory panel suggested 2.25 for consistency across the board and a cell size from 1 to 2.

Agenda Item: Request for Future Topics

Presenter: Tonika East, Chair

Summary of Discussion:

East requested the members share future topics for panel professional development, discussions and advocacy topics.

Feedback:

Michelle Morgan requested a discussion and guidance provision against the use of the discrepancy model for eligibility and IDEA and for Specific Learning Disability (SLD) students. Lacheena Carothers requested professional development that centers around understanding the different categories of special needs across the state.

Agenda Item: Committee Meetings

Presenter: Tonika East, Chair/Committee Members

Summary of Discussion:

Each subcommittee group leaders presented updates of action items to the panel, to include:

- Facebook page is now active: Kentucky State Advisory Panel for Exceptional Children.
- Proposed collaboration with Human Development Institute (HDI) to increase participation in the annual survey.

Feedback:

Panelists agreed that more work needs to be done with KDE and the HDI team to increase survey participation.

The meeting was adjourned at 11:47 a.m. ET.

The next meeting is scheduled for April 18 at 9 a.m. ET.