

Nebraska Department of Education | Office of Special Education

## SPECIAL EDUCATION ADVISORY COUNCIL



# ANNUAL REPORT

## 2021-2022



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## COMMISSIONER OF EDUCATION

Matthew Blomstedt, Ph.D.

### OFFICE OF SPECIAL EDUCATION (SPED)

Amy Rhone  
Administrator

Kris Elmshaeuser  
Assistant Administrator

### SPECIAL EDUCATION ADVISORY COMMITTEE (SEAC)

#### Executive Committee

Terry Houlton, Chair  
Kasey Alexander  
Kris Elmshaeuser, Facilitator

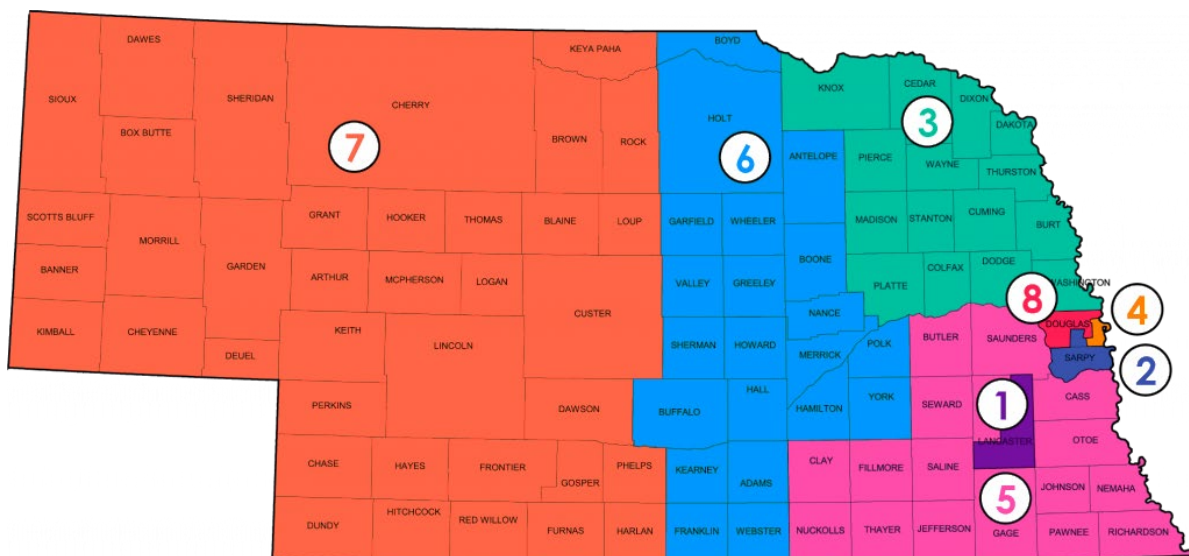
Graciela Sharif  
Sr. Janelle Buettner  
Leslie Galloway, Recorder

#### STATE BOARD MEMBERS

#### DISTRICT

Matthew Blomstedt, Ph.D.	Commissioner of Education	
Patsy Koch Johns	President	1
Lisa Fricke		2
Patti Gubbels		3
Jacquelyn Morrison		4
Kirk Penner		5
Maureen Nickels		6
Robin Stevens	Vice President	7
Deborah Neary		8

### NEBRASKA DEPARTMENT OF EDUCATION DISTRICT MAP



Funded by Nebraska Department of Education (NDE) Part B funds, grant H027A200079. Copies of this report, and additional information regarding SEAC and the NDE Office of Special Education can be obtained at <https://www.education.ne.gov/sped>



## A NOTE FROM THE SEAC CHAIR

Wow! It has been an amazingly impactful honor to serve as a member of the Special Education Advisory Council (SEAC) over the past several years and as the Chair over the last year. As a school district director of special education, I truly appreciate the value of hearing about topics from multiple perspectives. It has made me a better professional and a better person. I also would like to thank my fellow committee members for the trust that they showed in me as Chair and the assistance that I have been provided by so many to make for a successful year for SEAC.

I have always believed that if we put the right people around a table and have the right conversations focused on what is best for students, including students with disabilities, we can solve any issue that we face in education. SEAC does this by including membership from parents, educators, administrators and other representatives from various state agencies to provide insight and guidance to the Nebraska Department of Education – Office of Special Education. SEAC leans into the multiple perspectives of members who come together in good will to reach recommendations in the best interest of students with disabilities that can only be reached through the melding of expertise from various stakeholders.

Some of the highlights of SEAC work over the last year;

- Engaged in discussions around the ongoing affects of the COVID-19 pandemic on students with disabilities and opportunities that are available through recovery and a return to learning. NDE-Office of Special Education provided several updates on efforts and resources to assist schools in educating students with disabilities during this unique time in education.
- Developed recommendations regarding the use of restraint and seclusion for students with disabilities for use by the NDE-Office of Special Education.
- Identified the need to develop SEAC standing positions on issues related to students with disabilities and special education services within Nebraska. This work started with the collection of past position statements laying the foundation for future discussion around areas where SEAC standing positions would be a benefit.
- NDE-Office of Special Education provided numerous updates and solicited input from SEAC on topics in areas of their work on Journey to Inclusion, State Systemic Improvement Plan, State Performance Plan and Annual Targets among others.
- SEAC discussed the special educator shortage and awareness around Nebraska for opportunities to become a special educator and other professional development available to educators.
- The year ended with work on a draft SEAC flier that provided information the council and the work it engages with.

The purpose of SEAC is to inform the NDE-Office of Special Education and the State Board regarding topics that are impactful to the education of students with disabilities. Over the course of the past year this purpose was accomplished thanks to the efforts of the NDE-Office of Special Education staff and its leadership by Amy Rhone State Director and Kris Elmshaeuser Assistant State Director along with the thoughtful input and engagement of each of the SEAC members. This group of people truly understands that we are better together and through working together we position ourselves to impact the education and learning of students with disabilities across Nebraska. I am very thankful to be a part of this impactful group and to have had the opportunity to Chair SEAC over the last year.

Respectfully,  
*Terry Houlton*

Terry Houlton, Ed. D.  
SEAC Chair 2021-2022

## WHAT IS THE NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL (SEAC)?

The Special Education Advisory Council (SEAC) is an advisory panel established to provide policy guidance with respect to special education and related services for children with disabilities. SEAC members become knowledgeable about research-based educational practices and review Nebraska Department of Education, Office of Special Education activities designed to improve outcomes for children with disabilities. The Council reviews and approves Nebraska's State Performance Plan and Annual Performance Report.

SEAC Members are selected for a term of four years, and seek information from the perspectives of their constituency groups and share information with these same constituency groups. Members include parents and professionals from all areas of the state. SEAC serves in an advisory capacity to the NDE Office of Special Education, the Commissioner of Education, and to the Nebraska State Board of Education.

The responsibility of each Council member is to advise, (i.e. inform, counsel, recommend, suggest or guide) the Department of Education, not to advocate for individual issues. Recommendations are made by SEAC for the consideration and possible action by the NDE Special Education Office and the State Board.



2021-22 Executive Committee included (L-R): Kris Elmshaeuser, Assistant Administrator of the Office of Special Education and Facilitator for SEAC, Terry Houlton, Chair, Kasey Alexander, Sister Janelle Buettner, Amy Rhone, Administrator of the Office of Special Education, Graciela Sharif

## REGULATORY AUTHORITY

By the authority of the Individuals with Disabilities Education Act of 2004, each state is required to have a state advisory panel that provides policy guidance in the area of serving children with disabilities. The IDEA regulations specify the duties and make-up of each state advisory panel. In Nebraska, this panel is called the *Nebraska Special Education Advisory Council*.

EXCERPTS FROM THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT OF 2004 (IDEA):

I. Regulatory Authority for Committee

*Sec. 1412(21)(A) State Advisory Panel*

- a. The State has established and maintains an advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the State.

II. Committee

*Sec. 1412(21)(D)*

- d. The state advisory panel shall –

- i. Advise the state education agency of unmet needs within the state in the education of children with disabilities;
- ii. Comment publicly on the state plan and rules or regulations proposed for issuance by the state regarding the education of children with disabilities;
- iii. Advise the State educational agency in developing evaluations and reporting on data to the Secretary under section 618;
- iv. Advise the State educational agency in developing corrective action plans to address findings identified in Federal monitoring reports under this part; and
- v. Advise the State educational agency in developing and implementing policies relating to the coordination of services for children with disabilities.

## 2021-2022 SEAC MEMBERSHIP

NAME	REPRESENTATION	TERM EXPIRATION	STATE BOARD DISTRICT
Kasey Alexander †	i, ii	2023	District 3
Jean Anderson	v	2024	District 7
Paul Bohn	x	2024	District 2
Amy Bonn	i	2022	District 2
Adia Brightman	v	2025	District 4
Sr. Janelle Buettner †	vii	2024	District 1
Julie Czepa	i	2024	District 2
Christina Edelbrock	ii, vi	2024	District 4
Kristin Flott	i, vi	2022	District 4
Barb Gentrup	ii	2022	District 6
Lupe Stevens	viii	2025	District 3
Jennifer Meints	i	2025	District 1
Terry Houlton †	v	2022	District 2
Samantha Jacobson	i, ii	2025	District 5
Kami Jessop	v	2022	District 8
Mary Jorgensen	i	2022	District 2
Tom Kadavy	i	2022	District 1
Seamus Kelly	i	2023	District 8
Renee Kiernan	i	2022	District 2
Tracey Kovar	vii	2022	District 4
Kristen Larsen	vi	2023	District 1
Matthew McNiff	i, v	2022	District 5
Kirk Russell	iv	2023	District 1
Mandy Plog	i	2024	District 7
Dr. Felicity Post	iii	2023	District 5
Carlos Sevan	i, vii	2025	District 1

Graciela Sharif	i, vi	2025	District 8
Heidi Sommer	i	2024	District 2
Allison Wilson	ix	2025	District 1

**LEGEND:** **(i)** parents of children with disabilities (ages birth through 26); or Individuals with disabilities; **(ii)** teachers; **(iii)** representatives of institutions of higher education that prepare special education and related services personnel; **(iv)** State and local educational officials who carry out activities under Homeless Assistance Act; **(v)** administrators of programs for children with disabilities; **(vi)** representatives of other State agencies involved in the financing or delivery of related services to children with disabilities; **(vii)** representatives of private schools and public charter schools; **(viii)** not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and **(ix)** a representative from the State child welfare agency responsible for foster care; and **(x)** representatives from the State juvenile and adult corrections agencies. Special Rule – a majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

## OTHER ASSOCIATES

Kris Elmshaeuser	NDE	SEAC Facilitator
Leslie Galloway	NDE	SEAC Recorder

## **SEAC MEMBERSHIP REQUIREMENTS**

### Categories of Required Representation

EXCERPTS FROM THE FEDERAL INDIVIDUALS WITH DISABILITIES EDUCATION ACT – IDEA, SEC. 1412(21)(B):

- B. Membership – Such advisory panel shall consist of members appointed by the Governor, or any other official authorized under State law to make such appointments, be representative of the State population, and be composed of individuals involved in, or concerned with, the education of children with disabilities, including—
- i. parents of children with disabilities (ages birth through 26); or Individuals with disabilities;
  - ii. teachers;
  - iii. representatives of institutions of higher education that prepare special education and related services personnel;
  - iv. State and local educational officials who carry out activities under Homeless Assistance Act;
  - v. administrators of programs for children with disabilities;
  - vi. representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
  - vii. representatives of private schools and public charter schools;
  - viii. not less than one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; and
  - ix. a representative from the State child welfare agency responsible for foster care; and
  - x. representatives from the State juvenile and adult corrections agencies.
- Special Rule – a majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities.

Special Rules – a majority of the members of the panel shall be individuals with disabilities or parents of children with disabilities (ages birth through 26).

EXCERPT FROM NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL OPERATING PROCEDURES ARTICLE II, SEC. B:

The members shall be selected so as to represent all eight of the State Board of Education election districts. The Council voting membership shall not be fewer than 15 members.

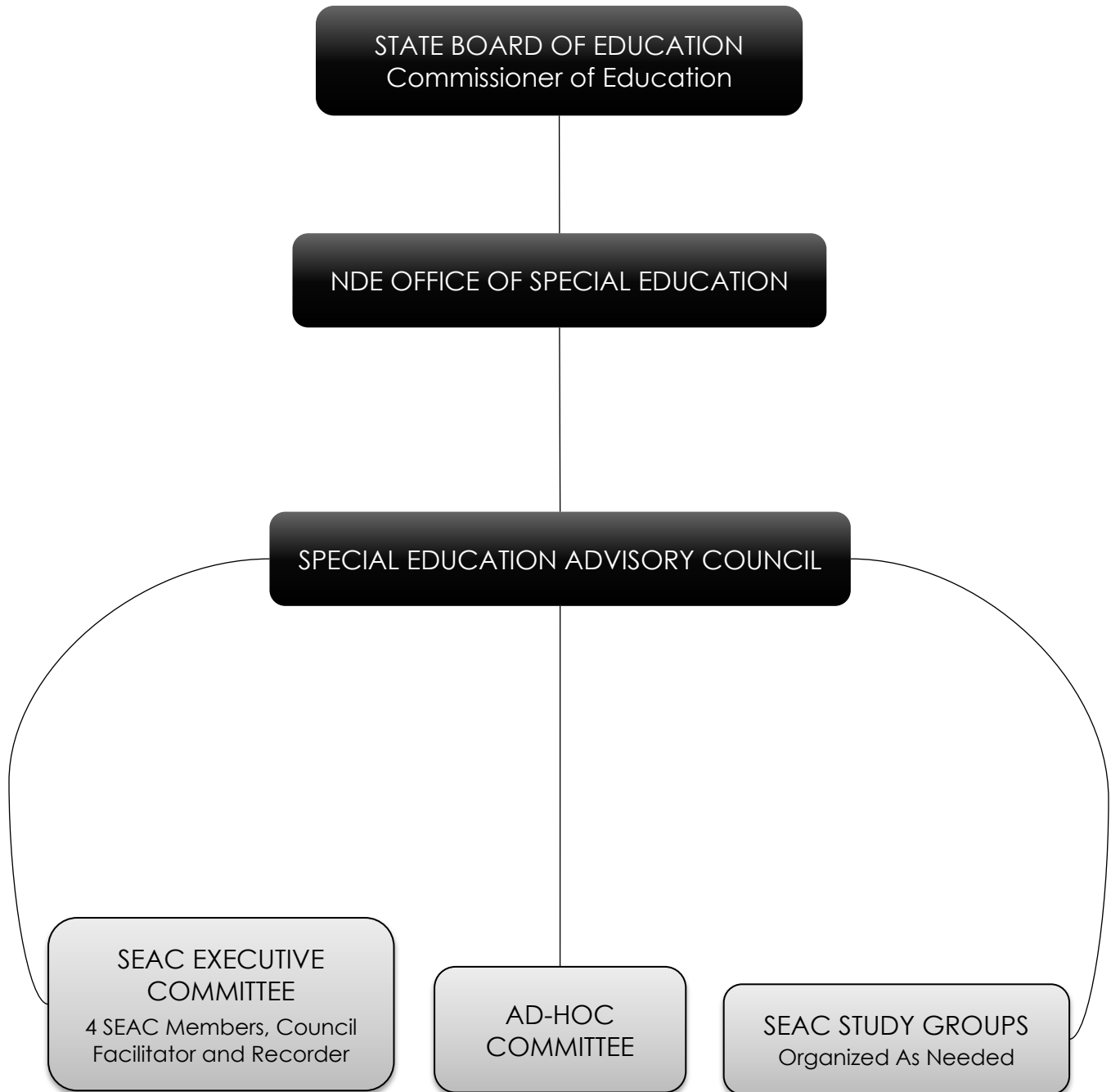
## SEAC PRIORITIES

*For the purpose of providing policy 4803y guidance to the Nebraska Department of Education, with respect to special education and related services for children with disabilities, the following priorities will serve for a focus of continuity as we transition from 2019-2020 through 2021-2022.*

1. To participate in the development, review and revision of the State Systemic Improvement Plan Process with input on the Targeted Improvement Plan implementation at the local level to improve results for students with disabilities in the following areas:
  - a. Impact Area 1: Improving Academic Achievement, Functional Outcomes and Child Outcomes in Natural and Inclusive Environments
  - b. Impact Area 2: Improving Communication and Relationships Among Families, Schools, Communities and Agencies
  - c. Impact Area 3: Improving Transitions from the Early Development Network to Preschool and School to Living
2. To review the effectiveness of the current State Performance Plan (SPP) through the analysis of data in the Annual Performance Report (APR) to determine that Nebraska is demonstrating continuous improvement in the compliance and results indicators. To inform the NDE in the development and improvement of The LEA Level Determinations.
3. To monitor state and federal legislation, including the Every Student Succeeds Act (ESSA) and the Individuals with Disabilities Education Act (IDEA) to assure the linkage between ESSA and IDEA.
4. To inform NDE – The Office of Special Education in initiatives that are relevant to both federal and state priorities within special education, specific to:
  - a. Health/Medical
  - b. Family and Professionals Support
  - c. Discipline/Behavior - Suspension/Expulsion
  - d. Mental Health
  - e. Social/Emotional Learning
  - f. Transition Supports



## SPECIAL EDUCATION ADVISORY COUNCIL STRUCTURE



## REVIEWING THE WORK OF SEAC 2020-2021

The Special Education Advisory Council held the first meeting of the year on September 9, 2021 in a hybrid model. Those who attended in person met at the Embassy Suites in Lincoln with other members attending via Zoom.

A new member orientation meeting was provided at the first meeting in September. Additionally, new Council members and current members reviewed the SEAC Priorities, the duties of the SEAC, council structure, and roles and responsibilities.

The second meeting held in December was also held in a hybrid model with the last two SEAC meetings for the year held in March and May with the full council in person.

Prior to each meeting, the SEAC Executive Committee met to develop meeting agendas, monitor the progress of any SEAC committee work, and prioritize agenda items that required SEAC recommendations or specific actions.

At each meeting, SEAC members were afforded the opportunity to share information from their respective constituent groups, learned about professional learning activities sponsored by the Nebraska Department of Education – Office of Special Education, and engaged in learning about the status of critical initiatives.

This year's NDE updates including the Deaf or Hard of Hearing State Plan, State Systemic Improvement Plan, Equity and Monitoring Work being done with districts. Also included topics in district wide assessments, assistive technology, and use of ESSER funds and additional IDEA dollars - ARP.

Sought input and feedback from our SEAC stakeholders on the State Performance Plan/Annual Performance Report target setting for 2020-2025. Rule 51 was updated and was awaiting signature of the Governor. The update to Rule 51, 007.07A9 states, "Beginning not later than the first IEP to be in effect when the child turns 14 and updated annually thereafter". This replaces the previous wording of "16, or younger if deemed appropriate by the IEP team".



## REVIEWING THE WORK OF SEAC 2021-2022 (CONT.)

The council discussed several Legislative issues: LB 1251 and how to support non-public needs for students with disabilities placed by their parents in a nonpublic school. SEAC also discussed that while LB595 is currently a moot point as the Senator behind the bill resigned, discussion around this topic will continue as there are still supporters of this bill and it has the potential to be raised again.

Functional Behavioral Assessments & Behavioral Intervention Plans subcommittee continued their work and presented their current proposal to the Council in September. Suggestions were made and then in December it was brought back to the council for approval. A motion was made and approved to send the SEAC sub-committee's recommended amendment proposals regarding FBA's and BIP's to the State Board of Education. These recommendations included wording amendments to 51 NAC 007.07B3 as well as adding definitions for restraint and seclusion and additional wording to the current provisions in Rule 51, section 007 regarding record keeping, data collection, and submission of data in regards to incidences of restraint/seclusion.

Two other topics of discussion by the council included creating a SEAC flyer for distribution to potential new members and creations of a clearinghouse for professional development available for special education and general education teachers to increase their knowledge around special education and become more equipped to continue in educating students with disabilities.

SEAC priorities shaped the foundation of the construction of each SEAC meeting agenda. All SEAC agendas, including the SEAC meeting minutes are included herein.





# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

An advisory panel providing policy guidance to the Nebraska Department of Education with respect to special education and related services for children with disabilities.

#### September 9, 2021 - AGENDA

##### Attend In-Person

Embassy Suites  
1040 P. Street  
Lincoln, NE 68508

##### Attend via Zoom Meeting

<https://educationne.zoom.us/j/97671380753?pwd=U2FJSERSaEhXR1AreUtDRklmbDEzQT09>

Meeting ID: 976 7138 0753

Passcode: 395924

#### 8:30 Meeting Begins

8:30 Orientation for New Members (Review of SEAC Operating Procedures & Orientation Materials)

#### 10:00 Welcome & Introductions

Kris Elmshaeuser  
Terry Houlton

#### Council Business

Terry Houlton

- Open Meetings Law Announcement
- Notification posted in the Omaha World-Herald on August 26, 2021
- Approval of September 9, 2021 agenda\*
- Approval of May 6, 2021 Minutes\*
- SEAC Members Eligible for Executive Committee
  - Adia Brightman
  - Samantha Jacobson
  - Jennifer Meints
  - Kirk Russell
  - *Carlos Servan - Pending State Board Approval*
  - Graciela Sharif
  - *Lupe Stevens - Pending State Board Approval*
  - Allison Wilson
- Notice of Conferences/Meetings
- Annual Report for 2020-2021
- NASES Update – Lona Nelson
- SEAC Member Updates/New/Sharing
- Executive Board Meeting Report

## **Public Comment\*\***

### **Functional Behavioral Assessments & Behavioral Intervention Plans**

SEAC Sub-Committee

#### **Discussion Items**

Kris Elmshaeuser

- Assessment – Jeremy Heneger
- Assistive Technology Partnership – Brian Wojcik
- ARP ESSER Funds and Stakeholder Input to Districts

### **NDE Office of Special Education Team Reports**

Amy Rhone  
Jamie Chambers

- Technology
- IDEA/ARP
- New Guidance Documents
- LB 527
- Non-Public/Homeschool Exempt
- Flexible Funding and Coordinated Early Intervening Services
- Updates on complaint issues within the State
- RDA Stakeholders Meeting

Kelly Wojcik

### **Adjourn**

Terry Houlton

\*Items requiring Council action

\*\*Per the SEAC Operating Procedures, opportunity for public comment is requested in advance

### **Next Meeting Date: December 9, 2021**

#### **2021-2022 Meeting Dates**

September 9, 2021  
December 9, 2021  
March 17, 2022  
May 12, 2022

#### **Upcoming Conferences:**

- October 7-8, 2021 – NMTSS Summit – Virtual
- November 4-5, 2021 – Tri-State Law Conference – Virtual
- November 9, 2021 – PARA Educator Conference – Hybrid (Virtual & In-Person - Younes Conference Center, Kearney, NE)

#### **NE SEAC Executive Committee Members**

Terry Houlton, (2021-2022) Director of Special Education Millard Schools, Omaha, NE  
Kasey Alexander, (2022-2023) Educator, West Point Schools, West Point, NE  
Sr. Janelle Buettner, (2023-2024) Principal, North American Martyrs Catholic School, Lincoln, NE  
New Member, (2024-2025) \*Will be elected at December, 2021 SEAC Meeting\*

## **Understanding the Advisory Council Functions under IDEA**

*All Council activities should relate to one or more of the functions*

1. Advise the SEA of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
  - a) Training educations on working with children with Autism
  - b) Students not being adequately served in juvenile and adult correctional facilities
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
  - a) The federal law is reauthorized, and the State makes revisions to their regulations
3. Advise the State in developing evaluations and reporting on data to the Secretary under Section 618 of the Act. CFR 300.169(c) \*Grown the most since 2004
  - a) The SEA is reviewing and refining APR improvement strategies
  - b) Upon completion of a State and school district drill down, it was concluded that students with disabilities had lower graduation rates than students without disabilities.
4. Advise the State in developing corrective action plans to address finding identified in federal monitoring reports under Part B of the Act. CFR 300.169(d)
  - a) The State has just experienced an OSEP Visit and was found to be in noncompliance on various fiscal issues.
5. Advise the State in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169€
  - a) The SEA is proposing a new MOU with the Department of Corrections
  - b) The SEA is revising its MOU with the Department of Health
6. The SEA, after deleting personally identifiable information must
  - Provide the Advisory Council with the DPH findings and decisions and
  - Make those finding and decisions available to the public. CFR 300.513(d) & 300.514(c)
  - a) DPH decisions identify consistent issues.
  - b) The SEA has experienced a spike in DPHs
7. Waiver of non-supplant requirement. State must consult with the Advisory Council regarding provisions of FAPE. CFR 300.164(c)(4)
8. States retain discretion to determine the risk ration threshold above which disproportionality is significant so long as that threshold is reasonable and based on advice from their stakeholders, including their State Advisory Councils. 34 CFR 600.647(b)(iii)(A)





# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

In-person - Embassy Suites – Lincoln

Virtually via Zoom Com.

September 9, 2021

### MINUTES

**SEAC MEMBERS PRESENT:** Alexander, Anderson, Bohn, Bonn, Czepa, Edelbrock, Flott, Gentrup, Higgins, Houlton, Jessop, Kiernan, Kovar, Larsen, McNiff, Meints, Plog, Post, Russell, Sharif, Sommer, Wilson.

**MEMBERS ABSENT:** Brightman, Buettner, Jacobson, Jorgensen, Kadavy, Kelly.

**NDE STAFF PRESENT:** C. Chambers, J. Chambers, Galloway, Gunderson, Hayes, Lenser, Miranda, Rhone, Tantow, Wojcik.

**SEAC FACILITATOR:** Elmshaeuser

*This meeting of the Special Education Advisory Council (SEAC) commenced at 8:30 a.m. Public notification of the meeting was on the Nebraska Department of Education website and in the Omaha World-Herald.*

#### **Orientation – Kris Elmshaeuser**

Kris spoke to the committee about understanding the Eight Advisory Council Functions under IDEA and reviewed the SEAC orientation materials, priorities, and operating procedures. Kris also talked about the importance of meetings, council functions, and how the meetings should run, etc. Covering such topics as agendas, confidentiality, consensus on voting, meeting minutes, public comment, etc., and how to use the resources provided on the SEAC Committee electronic platforms.

All members were encouraged to continue familiarizing themselves with all aspects of being a committee member and their responsibilities as such.

#### **Welcome – Kris Elmshaeuser & Terry Houlton**

Kris and Terry welcomed the committee and reminded everyone about open meeting laws.

#### **Approval of September 9, 2021, Agenda**

Barb Gentrup made a motion to approve today's agenda. Tracey Kovar seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

**Approval of May 6, 2021, Meeting Minutes**

Jean Anderson made a motion to approve the amended minutes of the meeting. Kristin Flott seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

**SEAC Members Eligible for Executive Committee – Terry Houlton**

Terry spoke to the committee and reminded them of the importance of the executive committee and its role within SEAC, particularly in regards to setting each meeting agenda. With this in mind, Terry shared that the executive committee would like to discuss revising the SEAC bylaws to revert to selecting the new class year executive committee member at the first meeting of each year rather than during the second meeting of each year as it is done currently. Terry explained that this would be discussed further at a future meeting and tabled the discussion for the time being.

Kris Elmshaeuser explained that while all-new 2021-2022 SEAC members are eligible for nomination to the SEAC Executive Board, the nomination process this year would be limited to new members who are a parent of a child(ren) with disabilities. This is due to the SEAC bylaws requiring at least one executive committee member to be a parent member and this role being vacant at the beginning of the 2021-2022 year.

**Notice of Conferences/Meetings – Terry Houlton**

Terry shared the upcoming conferences with members and reminded members to contact the SEAC Recorder, Leslie Galloway if they would like to attend any.

- September 21-24, 2021 – Division for Early Childhood Conference – Hybrid (New Orleans, LA)
- October 7-8, 2021 – NMTSS Summit – Virtual
- November 4-5, 2021 – Tri-State Law Conference – Virtual
- November 9, 2021 – PARA Educator Conference – Hybrid (Younes Conference Center, Kearney, NE & Zoom)

**Annual Report for 2020-2021 – Kris Elmshaeuser**

Kris shared the 2020-2021 SEAC Annual Report with members and informed them that the report is available on the NDE/SPED-SEAC Webpage as well as the SEAC Google Site.

**NASES Update – Lona Nelson**

Lona Nelson, past president of the Nebraska Association of Special Education Supervisors (NASES) updated the committee on recent projects within NASES as well as their goals moving forward. Lona explained that NASES prioritizes networking by working with partners in all Nebraska Department of Education (NDE) departments. She reminded the committee that every year NASES reaches out to new special education directors within the state of Nebraska and provides new membership programs to align new directors with mentors. Opportunities are then provided for the new directors and their mentors to meet regularly.

Lona shared that NASES had a spring conference with the NDE which focused on inclusion and they have scheduled monthly webinars so directors and partners may continue to engage in focused monthly hour-long conversations. Terry Houlton reminded members to take advantage of opportunities to work together as not all states offer these types of opportunities. Terry impressed upon the committee that SEAC is trying to engage in opportunities to bridge gaps and give everyone a voice as while everyone is coming from different places, partners must come together for the benefit of our students with disabilities and their growth and development as learners as we educate them.



### **SEAC Member Updates/News/Sharing – Terry Houlton**

Kristen Larsen shared that after hosting a successful RFA process, the Council on Developmental Disabilities (DD) awarded a competitive grant to PTI Nebraska for transition planning at three locations across the State of Nebraska. Kristen shared that DD is excited to launch this initiative as well as their new state plan for 2022-2026. She directed committee members to the DD website for more information on the new state plan goals and objectives.

Graciela Sharif shared that while she is still in contact with her former colleagues and believes in their mission, she is no longer with PTI Nebraska. Graciela is now working with the Munroe-Meyer Institute in a similar role to the one she held at PTI Nebraska. She went on to explain that she is excited to continue her work within the community assisting non-English speaking families, and refugees but her role on SEAC will now solely be as a parent member.

Johanna Higgins shared that oftentimes there are grant opportunities through the University of Nebraska-Lincoln for individuals that desire to pursue a master's degree. Johanna shared that these opportunities are very beneficial as they provide a great way to partner with the University as well as receive assistance with education expenses. Johanna asked that the committee consider ways to share information on these grant opportunities regularly. Terry encouraged members to share this type of information with the committee when they are aware of it and shared that the executive committee will discuss ways to share this information moving forward.

### **Executive Committee Meeting Report – Terry Houlton**

Terry shared that the executive committee met on August 24, 2021, to discuss today's meeting agenda items. Terry explained that oftentimes, the executive committee sets each agenda through open discussions on such topics as working with what the NDE/SPED staff is ready to report on as well as discussions and work with Amy Bonn and the SEAC subcommittee. It is vital that when work is happening the committee is engaging in these discussions. Terry reiterated from earlier in the meeting that it is because of these types of important discussions and work of the executive committee that the committee considers holding new executive committee member elections at the first meeting of each year.

### **Public Comment:**

Terry Houlton opened the floor for public comment and reminded all in attendance that as SEAC is an advisory board, public commenting is not an exchange or conversation between the board and the person commenting but is for SEAC to receive information and understand from the public their thoughts and concerns. Clarifying questions may be asked by SEAC members but discussional exchange back and forth will not be allowed. Public commenting may lead to the executive board discussing specific topics and this, in turn, may lead to a future agenda item at which point the topic would become official board business, and at that time more in-depth discussion will be allowed. Members of the public requesting public comment were allowed 3-5 minutes each to address the committee.

Bradley A. Meurrens, MPA – Public Policy Director, Disability Rights Nebraska – Topic - Restraint/Seclusion Regulations:

“Overall, we are concerned that the existing language in Rule 101, expressly requiring each school system to have a seclusion and restraints policy approved by the school board or local governing body, is not carried over into the initial draft of a proposed re-write of this rule. The omission of the current regulation raises multiple concerning questions:

First, is restraint and seclusion no longer a concern, no longer needing state-level regulation or policy? The omission sends that signal. Restraint and seclusion data is now required by state law to be collected, recognizing the risk to students, predominantly those with disabilities, and teachers/staff; why is it not further (thinly) regulated at the state level? Why would the existing state-level regulation be removed? Silence is tacit approval.

Second, do school systems need to retain their current restraint/seclusion policies? If the new regulations omit the current requirement, does this greenlight schools to erase their existing policies? The omission sends that signal—after all, these policies are *no longer* required. The existing requirement provides an insufficient prescription of school policy content, resulting in a patchwork of varied school policies (and student/staff protection); but it is better than no language at all.

Third, what other mechanism will be used to regulate restraint and seclusion? This omission flies in the face of the national and federal trends toward increasing the regulation of restraint or seclusion, ultimately reducing its use. Perhaps the principles for restraint and seclusion school policy established by the US Department of Education and the policy guidance developed by the Nebraska Department of Education could be utilized. There should be uniformity for school policies that authorize practices that directly involve the physical safety of students and staff. Students with disabilities and staff ultimately should not have different protections and policies based on their zip codes. If the department can require a basic uniformity in content area standards (see 004.01A4 Content Area Standards) why not also for restraint and seclusion?

We continue to be disappointed in the legislative proposals regarding student discipline and the attendant discourse by some policymakers. We grow skeptical of the appropriate nature and effectiveness of the current approach— a binary of legislative proposals that are either overly prescriptive or too loosely constructed. Perhaps there is a more effective means to move forward on the restraint and seclusion policy in Nebraska. Disability Rights Nebraska has some ideas on policy and process alternatives; particularly focused on working with/connecting those state and local authorities expert in education policy, advocates, and families/individuals who have lived experience with restraint and seclusion. Disability Rights Nebraska stands ready and willing to share resources, engage in dialogue, and work collaboratively to strengthen the regulation of restraint/seclusion in Nebraska.” – Bradley A. Meurrens

*1 See Rule 10 at Page 35: “011.01E Each school system has a seclusion and restraints policy approved by the school board or local governing body.*

Edison McDonald, Executive Director – The Arc of Nebraska – Topic: Restraint/Seclusion Regulations & ARP Funds

Edison echoed Bradley’s concerns regarding restraint and seclusion regulations and shared that he believes it is tremendously important for SEAC and the State Board of Education to take more leadership on this topic as he too is very concerned about the potential changes.

Edison then provided information around the specific needs of children with disabilities during the Covid-19 pandemic and how these needs may be served by programs funded by the American Rescue Plan (ARP). He shared his concerns with how the ARP funding process has been implemented and discussed across the state and his belief that the process has lacked input, transparency, and consistency. Edison explained that while some districts have held open forums or distributed surveys to parents with children with disabilities, others have not, and in

some of the districts that did seek input, the input process was unclear, not particularly proactive, and difficult to engage in.

He went on to share that he has sent letters to many districts and that Arc of Nebraska has had one of the largest on the ground presences of any disability organization in the state but they have heard little back as to engagement by local chapters and or members, which raises serious concerns as to how much engagement is happening. Arc of Nebraska has also learned of several families struggle to receive any specific individualized supports in response to significant educational loss their students have suffered due to the ongoing Covid-19 pandemic and some families with children with disabilities with complex medical needs are not being offered opportunities for home instruction as an official special education placement under IDEA. Many parents with medically fragile children with disabilities were given two choices, to attend school in person or disenroll entirely and homeschool. Edison strongly stated that this is unacceptable and that supports for those who need to be educated at home for their safety be allowed that opportunity. He believes that our state's vulnerable students are being pushed out of school instead of receiving safe, reasonable, and, appropriate supports and services and stressed that it is the responsibility of the NDE to ensure districts provide all students with a Free Appropriate Public Education (FAPE) especially now with the fallout of the Covid-19 pandemic and that he will remain available for any further discussion on this topic.

Terry asked Edison to clarify Arc's involvement throughout Nebraska and if he was more concerned about the way districts are using the ESSERS funds or potentially using the IDEA ARP funds. After explaining the role of Arc across Nebraska, Edison said he is concerned with both but mainly the lack of input and that families are struggling with such a diverse set of needs. He believes it is vital for funds to be made available and maximized to help students with what they are struggling with now for both those that require in-person attendance as well as remote attendance as there is funding available for both of those options.

Renee Kiernan asked for clarification on how parents find out how the funds are being spent and how it is being interpreted. Edison said there doesn't seem to be a standardized outreach as it is so it seems to be different district to district. He continued that it has even been a struggle when trying to reach out to districts in simply locating the correct person in each district as it varies greatly, so there is no particular process in which to engage, making it very difficult to help families engage at various districts.

Terry thanked both Bradley and Edison for their comments and for helping SEAC understand these topics from their point of view.

#### **Functional Behavioral Assessments & Behavioral Intervention Plans – SEAC Sub-Committee – Amy Bonn**

Pursuant to Article 1, Section B of the Operating Procedures for the Nebraska Special Education Advisory Council, a SEAC subcommittee was created on March 18, 2021, for the purpose of developing possible recommendations for the SEAC to make to the State Board of Education. These possible recommendations stem from concerns about the unmet needs of children with disabilities for behavioral supports in order to reduce the incidents of restraint and seclusion in Nebraska schools.

Amy updated the council and solicited feedback and suggestions on the revisions of the subcommittee proposal, which are ongoing. Amy shared that on August 4, 2021, the SEAC subcommittee met via Zoom to address and implement the suggested revisions from members of the council during the May 6, 2021 meeting. The group concluded that the need for revisions continues and that both of the following will still be needed, a presentation of the current draft to the full SEAC at today's meeting allowing for brief discussion and solicited feedback, as

needed; and additional work and meeting(s) among the members of the subcommittee to finalize a proposal for the full SEAC at a later meeting during the 2021-2022 school year.

Kris Elmshaeuser shared that the NDE along with feedback and input from a large crossover of partners is currently drafting a technical assistance document regarding what a functional behavioral assessment is, who would be conducting such assessments, and the different levels of assessments, etc. The document is currently in final edits and the NDE hopes to have it completed this Fall.

#### **Assessment – Jeremy Heneger Ed.D., NDE-Director of Statewide Assessment**

Jeremy updated and discussed with members the Nebraska Student-Centered Assessment System (NSCAS) Growth. He explained that Nebraska has embarked on a transition to an adaptive through-year assessment model, one which combines the best of MAP Growth and the NSCAS General Summative test, builds on the work Nebraska educators have done statewide to create an assessment system that is instructionally useful, meaningful to students, and connected to classroom practice. NSCAS Growth will be aligned to both the state standards and to the state summative blueprint. Adaptive outside of grade level and measuring growth, it will yield grade-level performance data throughout the school year and produce summative proficiency scores at year's end.

NSCAS Growth is a system that prioritizes educators and students while still delivering mandated data for policymakers, maximizes efficiency by not asking questions about what students know and can do that we know the answers to and instead uses that time to ask questions that still need answering and with actionable results tailored to each student and improving instruction multiple times a year, not just annually. NSCAS Growth improved grade-level data is provided to multiple levels of Nebraska's educational system in near real-time and results are specific for each student but can also be rolled up from the classroom, school, district, ESU Region, and state levels.

NSCAS Growth Data Information produced by NSCAS Growth What When RIT scores, including access to national norms, Fall, winter, spring Grade-level data based on indicators used to determine summative proficiency Fall, winter, spring Projected summative proficiency scores Fall, winter Spring Official summative proficiency scores and classification Remember that 2021-2022 is a preliminary transition year, so MAP Growth could be administered if RIT is used for high-stakes decision-making or MAP Accelerator/curricular connections. Professional learning Webinar(s) will support understanding of NSCAS Growth reports and data expected from the 2021-2022 winter pilot and spring administration Professional learning for 2022-2023 will support effective use of grade-level and grade-independent data from NSCAS Growth to inform instruction and foster student learning.

The NSCAS Growth will be operational in 2022-2023.

#### **Assistive Technology Partnership (ATP) – Brian Wojcik, Ed.D., NDE/ATP-Education Program Supervisor**

Brian shared that ATP's vision is to ensure that individual Nebraska children/students receiving special education services be successful by creating systemic capacity that results in quality Assistive Technology (AT) services for every child/student who needs AT. Brian then explained how the ATP implements its vision through a process-oriented evaluation of AT needs utilizing Quality Indicator for Assistive Technology Services (QIAT). The definition of 'Quality' AT services is derived from the Quality Indicators of Assistive Technology or QIAT. QIAT is based on research conducted by Joy Zabala and has been refined through the efforts of the QIAT Consortium.

Brian also discussed ATP's capacity building and the various levels of foundational organizational capacities, support structure, ATP educational activities, AT professional development, AT infrastructure, and AT systems, feedback, and consistency.

SEAC members then engaged in discussion and feedback around additional steps that need to be taken to help high-quality AT services increase as a "standard of practice" in Nebraska and strategies that will allow the ATP Education Program to measure "depth of impact" on AT practices within Nebraska.

#### **ARP ESSER Funds and Stakeholder Input to Districts – Kris Elmshaeuser**

As a condition of receiving these additional funds, districts are required to gain stakeholder feedback and input regarding how they should be used. Kris explained that while districts only have a short period to apply for these funds, the funds are ongoing and awarded grants can be amended to meet specific needs as they arise and thus stakeholders still have ample time to make their views heard.

The federal definition of stakeholders is broad, including parents, teachers, providers, administrators, and partners in education, etc. and thus, districts are allowed to utilize any of these avenues for feedback and input. Some districts have chosen to hold open meetings and/or surveys of staff and families as well as other means. Parents and/or parent groups who feel their voices are not being heard should speak with their district representatives as views and needs vary greatly across the state and from district to district, it is imperative that all viewpoints and needs are being taken into consideration to ensure the best is being done for all.

#### **NDE-SPED Team Report – IDEA/ARP – Amy Rhone**

Amy introduced the NDE Office of Special Education staff members and explained their various roles at NDE. Amy then shared that districts that have made the most significant gains among students, whether with or without disabilities, have done so by providing students with teachers skilled in content instruction during extra instructional time. However, typical achievement distributions show that both groups of students — those with mild to moderate disabilities and those without disabilities — fail at high rates to meet grade-level standards. Amy explained that with both categories of students performing poorly, there needs to be a focus on better supporting all students and blurring the often-sharp divide that exists. This goal requires a shift from thinking of students as belonging to two distinct categories and refocusing on better equipping general education teachers to educate all students.

The American Rescue Plan makes clear that ESSER funds can and should be used for activities that support students with disabilities. The Act calls out "students with disabilities" and activities authorized by the IDEA in its allowable use of funds. Additionally, all communications from The US Dept of Education to SEAs have emphasized the expectation that ARP ESSER funds will be focused on underserved student populations that have been disproportionately impacted by COVID-19, including students with disabilities. Amy then discussed the ARP at greater length and how districts can utilize these funds and directed SEAC members to the NDE Office of Special Education for various resources and information.

Amy then shared and discussed at length that the U.S. Department of Education's Office of Special Education and Rehabilitative Services (OSERS) sent a letter to its state and local partners reiterating its commitment to ensuring children with disabilities and their families have successful early intervention and educational experiences in 2021-2022 school year. She also spoke about how as part of the launch of the Roadmap, the White House also released a fact sheet highlighting the Administration's efforts to safely reopen schools and support our nation's students, including how the historic investment in the American Rescue Plan is advancing this work. The Roadmap also outlines how federal funding can support the safe and sustained return to in-person learning and how ARP funds can be used to support these reopening efforts.

**NDE-SPED Team Report – New Guidance Documents – Amy Rhone**

Amy shared with the committee that the NDE Office of Special Education recently shared, created, and/or revised several technical assistance and guidance documents. These documents include, “Developing Local Policies & Procedures Required for Implementation of Special Education Part B Regulations in Nebraska’s Public Schools”, “Guidance on Serving Homeschool, Exempt Students with Disabilities”, “Return to School Roadmap: Child Find Under Part B of the Individuals with Disabilities Education Act”, “Teaching Students with Specific Learning Disabilities Math”, “U.S. Department of Education – Importance of Full Implementation of IDEA Amidst Covid-19 Pandemic” and the “U.S. Department of Education – Return to School Roadmap”. All of these documents may be located on the main page of the NDE Office of Special Education webpage.

**NDE-SPED Team Report – LB 527 Transition Planning for 14-15 years olds– Amy Rhone**

Amy informed the committee that with the passing of LB 527 which will be codified at Neb. Rev. Stat. § 83-1225, Nebraska statute will require transition planning to be documented in Individual Education Programs (IEPs) as required by both federal and state law and must occur in the first IEP meeting held after the student reaches the age of 14. Amy then shared with the committee a memo that will serve as guidance beginning from August 28, 2021, until the completion of updates to 92 NAC 51 (Rule 51). Amy explained that this memo will serve as the guidance to districts to implement federal and state regulations as prescribed by IDEA, Nebraska Revised State Statute, and Title 92 Nebraska Administrative Code Chapter 51 (Rule 51). As this revision will be in effect, August 28, 2021, all Districts will have 90 days from the start of the 2021-2022 school year, to hold IEP meetings for current students, 14 and 15 years of age, to update current IEPs to comply with the new state statute.

**NDE-SPED Team Report – Non-Public/Homeschool Exempt – Amy Rhone**

The final regulations for the reauthorized Individual with Disabilities Education Act (IDEA) 2004 were published in the Federal Register on August 14, 2006, and became effective on October 13, 2006. These regulations contain several significant changes from the existing law and regulations. The regulations now require that public school districts, after timely and meaningful consultation with non-public school representatives and non-public school parent representatives, complete the ChildFind process to determine the number of parentally-placed children with disabilities attending nonpublic schools located within the public school district’s boundaries. The requirements make clear the obligation to spend a proportionate amount of IDEA Part B funds to provide special education services to children with disabilities enrolled by their parents in nonpublic schools. Additionally, the regulations require that children with disabilities parentally placed in a non-public school be served by the public school district within which the non-public school is located. Other key changes relate to a consultation process, calculation of the proportionate share, and standards applicable to personnel providing equitable services.

In response to the requirements of IDEA 2004, the NDE Office of Special Education formed a stakeholders task force to discuss and make recommendations on how best to merge the requirements of federal laws, and Nebraska’s state law. The stakeholders engaged in extensive discussions around the pros and cons of three service delivery models. These models were: 1) change Nebraska state statute from FAPE to equitable services for all children with disabilities parentally-placed in a non-public school; 2) revise Nebraska state statute definition of residency for non-public school children and provide FAPE for all children with disabilities parentally-placed in non-public schools; 3) provide a dual delivery system in which resident children with disabilities parentally-placed in a non-public school within their school district boundaries receive FAPE, and non-resident children with disabilities parentally-placed in a non-public school would be eligible to receive equitable services from the school district within which the non-public school is located, or parents may request the provision of FAPE from the child’s school district of residence.

The dual delivery system was recommended by the stakeholders, as this system provided harmonization of both federal law and state law and provided flexibility for non-resident children with disabilities parentally placed in a non-public school. Non-resident parentally-placed nonpublic school children with disabilities have two choices: 1) receive equitable services from the public school district within which the non-public school is located; or 2) request the provision of a free and appropriate public education (FAPE) from the child's resident public school district. Resident children with disabilities parentally placed in a non-public school continue to be eligible for the provision of a free and appropriate public education (FAPE) from the school district where the child resides. This dual delivery system aligns with Nebraska statute which requires public school districts to make the provision of a free appropriate public education (FAPE) available for all resident children.

#### **NDE-SPED Team Report – Flexible Funding and Coordinated Early Intervening Services (CEIS) – Kris Elmsaeuser**

IDEA flexible funding is state funding allowing for the use of special education funds to be used for at-risk students who are not currently identified as special education. CEIS is federal IDEA funding that allows a district to use up to 15% of its funding for programs or projects for at-risk students to keep them from being identified as special education.

Kris shared with members that the NDE Office of Special Education has created a Flex Funding Guidance Document as well as a Coordinated Early Intervening Services (CEIS) Guidance Document to ensure funds are being used for projects within districts that are truly focusing on at-risk students and following the letter of the law. These documents may be accessed on the NDE-SPED Webpage or by contacting the Office of Special Education.

#### **NDE-SPED Team Report – Updates on Complaint Issues with the State – Kelly Wojcik**

Kelly updated the committee on the complaint/dispute resolution process as well as the increase in complaints since the onset of the Covid-19 pandemic. Complaint data is tracked annually from July 1 through June 30 and issues that occurred more than one year before the filing of the complaint cannot be investigated. Complaints are managed and tracked by the NDE Office of Special Education Director of Accountability with support from the Director & Assistant Director. The NDE/SPED office contracts with investigators provided by the Technical Assistance for Excellence in Special Education (TAESE) and Corrective Action is overseen by selected Special Education Staff who are members of the Dispute Resolution Team,

During the 2020-2021 school year, 21 written state complaints (one being a systemic complaint) were received by the NDE/SPED office. Two were not investigated, nine had no findings of noncompliance, and were closed. Some complaints contained multiple issues and do not relate to the total number of complaints that had "No Findings". 10 complaints resulted in findings of non-compliance.

As of September 3, 2021, the NDE-SPED office has received eight complaints with two investigations being systemic complaints.

Kelly explained that the dispute resolution team encourages staff and parents to try to work out conflict(s) with whom the conflict(s) exist and obtain assistance from outside entities when resolution cannot be found. Staff and parents are also encouraged to understand Rule 51 and IDEA Requests Continued For Districts. It is also important to remember districts can respond to a complaint by admitting an error and offering a method of correction for parents.

#### **NDE-SPED Team Report – RDA Stakeholders Meeting – Amy Rhone**

Amy announced that the annual Nebraska IDEA Part C Results Driven Accountability (RDA) annual stakeholder meeting will be held on October 27, 2021 and that the IDEA Part B stakeholder meeting would be held on October

28, 2021. The meetings are being planned as Hybrid meetings but are expected to become fully virtual due to the ongoing Covid-19 pandemic.

Stakeholders will receive updates regarding the federally required State Systemic Improvement Plan for infants and toddlers and students with disabilities and will advise on setting data targets for the 2020-2025 Annual Performance Report.

**Approval to Adjourn Meeting**

Jennifer Meints made a motion to adjourn the meeting, Barb Gentrup seconded, and the motion passed unanimously by voice vote. The meeting adjourned at 3:36 p.m.

**The Motion carried**

The next meeting will be **Thursday, December 9, 2021, at 8:30 am** in-person at the Embassy Suites – Lincoln and possibly via Zoom Conferencing.

Respectfully submitted by:

Leslie Galloway

SEAC Recorder





# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

An advisory panel providing policy guidance to the Nebraska Department of Education with respect to special education and related services for children with disabilities.

## DECEMBER 9, 2021 – AGENDA

#### ATTEND IN-PERSON

Embassy Suites  
1040 P. Street  
Lincoln, NE 68508

#### ATTEND VIA ZOOM MEETING

<https://educationne.zoom.us/j/96893946864?pwd=NXo1M1VFMIQyOQ05pYk1Qa1Y3RWlaZz09>

Meeting ID: 968 9394 6864  
Passcode: 2426

8:30 REGISTRATION

9:00 WELCOME & INTRODUCTIONS

Kris Elmshaeuser  
Terry Houlton

#### COUNCIL BUSINESS

Terry Houlton

- Open Meetings Law Announcement
- Notification posted in the Omaha World-Herald on November 25, 2021
- Approval of December 9, 2021 agenda \*
- Approval of September 6, 2021 Minutes \*
- SEAC Members Eligible for Executive Committee
  - Adia Brightman
  - Samantha Jacobson
  - Jennifer Meints
  - Kirk Russell
  - Carlos Serván
  - Graciela Sharif
  - Lupe Steven
  - Allison Wilson
- Notice of Conferences/Meetings
- Annual Report for 2020-2021
- NASES Update – Lona Nelson
- SEAC Member Updates/New/Sharing
- Executive Board Meeting Report

#### PUBLIC COMMENT \*\*

- Board Certified Behavior Analysts (BCBA)

Johanna Higgins

## FUNCTIONAL BEHAVIORAL ASSESSMENTS & BEHAVIORAL INTERVENTION PLANS

SEAC Sub-Committee

### DISCUSSION ITEMS

- Connecting Higher Education with Practicing Educators/Administrators Across the State.  
Grants to Fund Students to Become Teachers or Other Types of Providers
- Data and Progress Monitoring Related to IEP Goals
- State Performance Plan/Annual Performance Report – Target Setting
- State Systemic Improvement Plan (SSIP)

Kris Elmshaeuser  
Johanna Higgins  
Terry Houlton  
Kris Elmshaeuser  
Kelly Wojcik  
Jamie Chambers  
Heather Ottoson  
Theresa Hayes  
Kelly Wojcik

### NDE OFFICE OF SPECIAL EDUCATION TEAM REPORTS

- Monitoring Activities
- Disproportionality
- RDA Stakeholder Meeting Update
- 92 NAC 51 – State Complaint Filing Update
- Special Education Teacher Retention Grant
- IDEA American Rescue Plan Funds
- Other Topics

Amy Rhone  
Kris Elmshaeuser  
Teresa Coonts  
Kelly Wojcik

### ADJOURN

Terry Houlton

NEXT MEETING DATE: MARCH 17, 2022

**A VIRTUAL OPTION WILL NOT BE OFFERED FOR THE MARCH 17, 2022 MEETING**

### 2021-2022 MEETING DATES

- September 9, 2021 – Hybrid
- December 9, 2021 – Hybrid
- March 17, 2022 – **IN-PERSON ONLY**
- May 12, 2022 – **IN-PERSON ONLY**

### UPCOMING CONFERENCES:

- February 22-23, 2022 – Transition Conference – Hybrid / Younes Conference Center, Kearney, NE
- April 7-8, 2022 – ASD Network State Conference – Hybrid / Younes Conference Center North, Kearney, NE
- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE)

### NE SEAC EXECUTIVE COMMITTEE MEMBERS:

**Chairman** – Terry Houlton, (2021-2022) Director of Special Education Millard Schools, Omaha, NE  
Kasey Alexander, (2022-2023) Educator, West Point Schools, West Point, NE  
Sr. Janelle Buettner, (2023-2024) Principal, North American Martyrs Catholic School, Lincoln, NE  
New Member, (2024-2025) \*Will be elected at December 9, 2021 SEAC Meeting\*

\* Items requiring Council action

\*\* Per the SEAC Operating Procedures, opportunity for public comment is requested in advance

## UNDERSTANDING THE ADVISORY COUNCIL FUNCTIONS UNDER IDEA

*All Council activities should relate to one or more of the functions*

1. Advise the SEA of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
  - a) Training educations on working with children with Autism
  - b) Students not being adequately served in juvenile and adult correctional facilities
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
  - a) The federal law is reauthorized, and the State makes revisions to their regulations
3. Advise the State in developing evaluations and reporting on data to the Secretary under Section 618 of the Act. CFR 300.169(c) \*Grown the most since 2004
  - a) The SEA is reviewing and refining APR improvement strategies
  - b) Upon completion of a State and school district drill down, it was concluded that students with disabilities had lower graduation rates than students without disabilities.
4. Advise the State in developing corrective action plans to address finding identified in federal monitoring reports under Part B of the Act. CFR 300.169(d)
  - a) The State has just experienced an OSEP Visit and was found to be in noncompliance on various fiscal issues.
5. Advise the State in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169€
  - a) The SEA is proposing a new MOU with the Department of Corrections
  - b) The SEA is revising its MOU with the Department of Health
6. The SEA, after deleting personally identifiable information must
  - Provide the Advisory Council with the DPH findings and decisions and
  - Make those finding and decisions available to the public. CFR 300.513(d) & 300.514(c)
  - a) DPH decisions identify consistent issues.
  - b) The SEA has experienced a spike in DPHs
7. Waiver of non-supplant requirement. State must consult with the Advisory Council regarding provisions of FAPE. CFR 300.164(c)(4)
8. States retain discretion to determine the risk ration threshold above which disproportionality is significant so long as that threshold is reasonable and based on advice from their stakeholders, including their State Advisory Councils. 34 CFR 600.647(b)(iii)(A)



# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

In-person - Embassy Suites – Lincoln  
Virtually via Zoom Com.

December 9, 2021

### MINUTES

**SEAC MEMBERS PRESENT:** Alexander, Anderson, Bohn, Bonn, Brightman, Buettner, Czepa, Flott, Gentrup, Higgins, Houlton, Jacobson, Jessop, Jorgenson, Kiernan, Kovar, Larsen, McNiff, Meints, Plog, Post, Russell, Sharif, Sommer, Wilson.

**MEMBERS ABSENT:** Edelbrock, Kadavy, Kelly.

**NDE STAFF PRESENT:** C. Chambers, J. Chambers, Coonts, Galloway, Gunderson, Hayes, Heater, Lenser, Miranda, Ottoson, Rhone, Tantow, Wojcik.

**SEAC FACILITATOR:** Elmshaeuser

*This meeting of the Special Education Advisory Council (SEAC) commenced at 9:00 a.m. Public notification of the meeting was on the Nebraska Department of Education website and in the Omaha World-Herald.*

#### **Welcome – Kris Elmshaeuser & Terry Houlton**

Kris and Terry welcomed the committee and reminded everyone about open meeting laws.

#### **Approval of December 9, 2021, Agenda**

Jean Anderson made a motion to approve today's agenda. Barb Gentrup seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

#### **Approval of September 9, 2021, Meeting Minutes**

Samantha Jacobson made a motion to approve the amended minutes of the meeting. Tracey Kovar seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

#### **SEAC Members Eligible for Executive Committee – Terry Houlton**

Nominations were made for the new member Executive Committee member representing the class of 2025. Terry explained that due to SEAC Bylaws requiring specific representation amongst the committee, the nominees from the new class would be limited to new members who are serving as a parent of a child with a disability. Thus the nominees for new member executive committee consideration were Jennifer Meints and Graciela Sharif. A ballot vote was conducted and Graciela was elected to serve on the Executive Committee.

**Notice of Conferences/Meetings – Terry Houlton**

- February 22-23, 2022 – Transition Conference – Hybrid / Younes Conference Center, Kearney, NE
- April 7-8, 2022 – ASD Network State Conference – Hybrid / Younes Conference Center North, Kearney, NE
- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE
- June 28-29, 2022 – Young Child Institute – Younes Conference Center, Kearney, NE

**Annual Report for 2020-2021 – Terry Houlton**

Terry shared that the 2020-2021 SEAC Annual Report has been completed and is available on the SEAC Google Site.

**NASES Update – Lona Nelson**

Lona shared that NASES continues to appreciate and value their partnership with NDE and is planning joint conferences for early 2022 that will represent that collaboration. Lona also shared that NASES is excited to support NDE's "Journey to Inclusion" initiative and NASES is doing what they can to support and educate districts, teachers, and special education parents. Lona reminded the committee that regional meetings are held regularly for networking and brainstorming together along with various NDE staff members.

**SEAC Member Updates/News/Sharing – Terry Houlton**

There were no updates to share at this time.

**Executive Committee Meeting Report – Terry Houlton**

Terry shared that the Executive Committee met on November 30, 2021, to set today's agenda and discuss subcommittee work on restraint/seclusion and future target setting for Results-Driven Accountability (RDA).

**Public Comment:**

Board Certified Behavior Analysts (BCBA) – Johanna Higgins. Johanna shared the below public comment as well as the article, "What is a Board Certified Behavior Analyst? Written by Johanna and William Higgins. Following the public comment the SEAC Executive Committee was asked to consider this topic for a future agenda item.

Thank you for allowing this public comment. I am speaking not as a member of SEAC but as a private citizen or member of the public making comments.

I have asked to speak today to share some information with this group that may be important to the future of special education in Nebraska.

I am also a Board Certified Behavior Analyst or BCBA. BCBAs are professionals that are certified in using applied behavior analysis (or ABA) to identify and design interventions. I have shared a link to an article I wrote with my husband about BCBAs. This was published in a magazine called Rethinking Behavior – Reece Peterson helped with this article and in an effort to make it as objective as possible he contacted individuals to provide feedback – some of you are here today I think.

First, I wanted to share with this group the role that BCBAs can play in helping to support districts/ESUs. BCBAs are not utilized as much in Nebraska as in other states. I believe there is an opening for teachers to become certified as BCBAs or work collaboratively with BCBAs to support children and families. They can be a valuable asset to teams, but BCBAs need to have specific training related to special education and collaboration to truly be part of the team.

Second, this year the Nebraska ABA has submitted an application that is the first step towards licensure 407 Process – this process is the way that the state of Nebraska reviews applications for new professions that want to be licensed. I have shared a link on the SEAC site to the application.

Licensure of BCBAs is important for several reasons:

- Over 30 states have licensure for BCBAs – this allows states to better recognize the profession and incorporate BCBAs into settings that require a professional to be licensed. Right now this is a barrier to services.

- Within the last few years, there has been an influx of BCBAs trying to practice in Nebraska – most of which are providing tele-practice and do not have BCBAs living in the state. The reason they can do this is because we do not have licensure. It is important to understand who is serving our children and families so that we can partner and collaborate towards better outcomes.

One other important point is that the proposed licensure exempts any person that is working in their role at the district level. Therefore, it does not prevent others from practicing behavior analysis (meaning ABA can continue to be used by teachers, coaches, etc.), it simply prevents people that are not BCBAs from saying they are Licensed Behavior Analysts in Nebraska.

**I hope that the group will consider two actions:**

- How BCBAs are utilized (or not utilized) across Nebraska right now (ASD Network on this one and Annette Wragge!)
- How teachers are trained in certification/endorsement programs to implement behavioral interventions in Nebraska right now (Felicity can help with this one!)

#### **Functional Behavioral Assessments & Behavioral Intervention Plans – SEAC Sub-Committee**

Amy Bonn shared that the Nebraska SEAC Sub-committee on FBAs and BIPs was ready to propose that the SEAC resolve, by a majority vote, to advise the State Board of Education of recommendations stemming from concerns about the unmet needs of children with disabilities for behavioral supports in order to reduce the incidents of restraint and seclusion in Nebraska schools.

Proposed recommendations included wording amendments to 51 NAC 007.07B3 as well as adding definitions for restraint and seclusion and additional wording to the current provisions in Rule 51, section 007 regarding record keeping, data collection, and submission of data in regards to incidences of restraint/seclusion.

#### **Motion to Discuss and Send the SEAC Sub-Committee’s Recommended Amendment Proposals Regarding FBA’s and BIP’s to the State Board of Education**

Amy Bonn made a motion for SEAC to discuss recommended amendment proposals and once approved to then send the proposed recommendations to the State Board of Education for consideration to potentially amend, revise and make additions to Rule 51. Heidi Sommer seconded the motion and the motion passed unanimously by member vote.

**The motion carried**

#### **Discussion Item - Connecting Higher Education with Practicing Educators/Administrators Across the State. Grants to Fund Students to Become Teachers or Other Types of Providers - Johanna Higgins**

Johanna shared information on the history, benefits to Nebraskans across the state, and how to apply for the University of Nebraska-Lincoln (UNL) Department of Special Education and Communication Disorders Personal Preparation Grants.

These grants are designed to provide funding for special education educators and related professionals requiring collaboration or partnerships at the state, district, and/or ESU levels. Administrators, teachers, and other interested individuals may use these grants to go back to school or receive additional training. The application deadline for these grants is January 15<sup>th</sup>, 2022 but UNL faculty will continue to submit proposals for these types of grants in the future. Districts and ESU’s may consider developing partnerships with faculty to submit grants related to areas of need.

Discussion amongst SEAC members regarding this topic was held after Johanna’s presentation.

#### **Discussion Item - Data and Progress Monitoring Related to IEP Goals - Terry Houlton**

Terry discussed Rule 51, Section 007.07A4 which states, “A description of how the child’s progress toward meeting the annual goals described in 92 NAC 51-007.07A2 will be measured and when periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided”.

Terry shared concerns regarding data and progress monitoring when setting IEP goals as there is now more technology available to more adequately review and capture progress which makes the validity of data more reliable. Terry also discussed the importance of collecting and communicating progress made and in cases where progress is not being made, the importance of re-convening the IEP team to ensure the IEP is providing educational benefit to the child and amendments are being made so that progress can continue.

Discussion amongst SEAC members regarding this topic was held.

**Discussion Item - State Performance Plan/Annual Performance Report – Target Setting - Kris Elmsaeuser, Kelly Wojcik, Jamie Chambers, Heather Ottoson & Theresa Hayes**

Kris, Kelly, Jamie, Heather, and Theresa, all NDE Office of Special Education (NDE-OSE) staff members, discussed the State Performance Plan/Annual Performance Report with SEAC Members. They explained that this is a yearly report that the NDE-OSE is required to submit to the U.S. Office of Special Education Programs (OSEP) and is due on February 1, 2022. This year NDE is setting new targets and worked around Indicator 8 at today's meeting as well as sharing information regarding the other indicators.

They explained that the Part B State Performance Plan and Annual Performance Report that is submitted to OSEP, annually has made changes to the FFY 2020–2025 SPP/APR Submission. New baselines need to be considered and new targets need to be set. As the new baselines and targets are being considered OSEP will allow districts to consider the impact of COVID-19 on the State's SPP/APR data. OSEP recognizes that COVID-19 could impact FFY 2020 data collection and data reporting. Baseline requirements include, (1) states must indicate a baseline year for each indicator, (2) states are permitted to revise baseline data – If revising, states must provide an explanation for the revision (3) OSEP expects that states would revise baseline data when there is a change in methodology or data source for the indicator that affects the comparability of the data. Some reasons indicators will require a new baseline are because (1) the requirement or the way the indicator is measured has changed, (2) the impact of COVID-19 on data quality, completeness, and accuracy, (3) the baseline data are not representative, (4) state or local programs have out-of-range data, (5) Data collection tools and/or methods changed and (6) measurement requirements changed.

Staff members also discussed that for target setting, states must set targets for SPP/APR indicators through FFY 2025 – Indicators B1 through B17 – Covering the years of the SPP/APR (FFY 2020 through FFY 2025) targets must reflect improvement over the baseline data. Requirements for Results Targets include, (1) targets must be rigorous yet achievable, (2) they must show improvement over baseline, and (3) they must be set with the advice of stakeholders.

Discussion amongst SEAC members regarding this topic was held.

Heather specifically discussed the proposed targets for Indicators 6 and 7 which both involve preschool children with disabilities.

Indicator 6 or Preschool Environments, looks at the percentage of children ages 3 through 5 with IEPs who receive special education and related services in 3 types of settings. These include a regular early childhood program (where the majority of children (50% or more) are non-disabled or children who do not have an IEP). The second setting is in a separate class, school, or residential facility. The third setting is home. Something new that is taking place with this data reporting cycle is that 5-year-old children who are in kindergarten on or before the October 1st child count are no longer being reported. Previously, these 5-year-old children were being reported within Indicator 6. However, Nebraska's data will not show see drastic effects from having those children removed from the data count.

Heather shared the proposed targets for 3-5 year-olds. Over the past few months, NDE-OSE has met with several groups of early childhood stakeholders who voted on the model to be used for the projected targets. The stakeholder groups landed on a set percentage and are now using that model. Heather noted that specifically for the 3 year-olds, they must be afforded access to a regular early childhood program more than they currently are in the state of Nebraska. The baseline for 4 year-olds, is again school year 20-21 which allows access to the progress or impact related to preschool educational environments due to effects such as COVID, statewide initiatives, and initiatives within districts. Lastly, the

proposed targets for 5 year-olds are again, similar to the other age groups in that category, high, while B and C are lower than national averages.

Now, we will look at the proposed targets for Indicator 7 or preschool child outcomes. This indicator looks at the percent of children ages 3 through 5 with IEPS who demonstrate improved positive social-emotional skills (including social relationships), acquisition and use of knowledge and skills (including early language and communication as well as early literacy), and use of appropriate behaviors to meet their needs. All of our preschool outcome scores come from our Nebraska Early Childhood Assessment, Teaching Strategies GOLD. Districts are required to enter ratings on the child's current level of functioning in a variety of developmental areas upon entry and exit into Part B special education services. The scores derived from these ratings are then in turn reported annually to the federal government.

Heather also shared that it is important to note that there are changes that will be taking place with how GOLD data is reported to OSEP. Those changes have already been applied to the Part C Infant/Toddler outcomes and will now trickle down into the Part B Preschool outcome scores. These changes within the GOLD data should allow for the infant and toddler child outcomes scores to be higher and will then cause the preschool outcome scores to hopefully stabilize over time. Over the years, the Part B preschool outcome data has been extremely variable and the hope is to see more consistency with scores going forward. These changes will be applied to the 2021-22 school year and impact children exiting Part B on or after July 1st. With these changes to the state's GOLD data, the state will need to reset targets again next year. At that time, the state will have the best-represented data with two years' worth of data (the school year 2021-22 and manually recalculated the school year 2020-21 data) to analyze and reset targets again.

The proposed targets for Indicator 7 will set a baseline as the year 2020-21 and incrementally increase by .25% annually for each outcome area. NDE-OSE is being cautious with the targets due to the effects of Covid-19 as well as knowing that the applied changes with GOLD will be going into effect starting with this school year's data and continuing onward.

Lastly, the committee was reminded that Indicator 8 Parent Involvement Surveys are sent every year to districts to request feedback from parents with students with disabilities. Districts are in a three-year cycle for sending surveys. In the last three years, the return rate has been between just under 3000 surveys. In 2018, 15,641 surveys were sent to parents and in the last two years, it has been 3316 and 4904. Although the number of surveys sent out in 2018 was significantly higher, the response was not different than the last two years. Proposed changes are being discussed to increase the rate of participation/responses. Some of these proposals include working with districts to improve distribution to parents, making slight changes to the survey, and changing the three-year cycle so all districts year one, then half of the districts in year two, and the other half in year three. More discussion around this topic is imperative as every parent needs an opportunity in the state to complete the survey.

Discussion amongst SEAC members regarding this topic and how Covid-19 was held.

#### **Discussion Item - State Systemic Improvement Plan (SSIP) - Kelly Wojcik**

Kelly discussed changes to improving outcomes for students with disabilities by identifying a State Identified Measurable Result (SiMR). The current SiMR states, Increase Reading Proficiency for students with disabilities at the 3rd Grade Level as measured by the statewide reading assessment (NSCAS). The new SiMR states, Increase Reading proficiency for students with disabilities at the 4th Grade Level as measured by the statewide reading assessment (NSCAS).

The rationale for this change is the OSEP changed how assessment results will be reported, Stakeholders felt the SSIP should align to what is already being reported and the request that NSCAS Scores are disaggregated by disability category to assist districts in understanding what supports may be needed. Recommendations from Stakeholders included using results from the Spring 2021 NSCAS Assessment as the baseline. This will result in a .5% increase for Spring 2022 and then additional increases of 1% in Spring 2023 and beyond.

The evaluation plan for the SSIP was required to make changes to the measurement used for the State Identified Measurable Result (SiMR). These changes include Measures of Academic Progress (MAP) to Nebraska Student-Centered Assessment System (NSCAS) Growth, Prune activities completed, Consolidation of Activities and Measures from Phase II SSIP into a single document, and use of the template required by the Office of Special Education Programs (OSEP)



### **NDE-SPED Team Report – Monitoring Activities – Teresa Coonts**

Teresa discussed monitoring of 52 school districts for Part B (ages 3-21). Teresa shared that many great things are going on (MTSS work, working on updating policies and procedures, making improvements in transition for post-secondary; districts seeing how using evidence-based strategies are supporting students). She also noted the dedication of educators and administrators as many welcomed the conversation on how to improve things for their districts and ways to improve IEPs. There have been a few issues with consent from outside agencies for purpose of providing or paying for transition services before inviting the outside agency to IEP meetings (i.e. VR, DHHS, etc.).

Teresa explained Prior Written Notice (PWN)-using NA or leaving areas blank. Some districts have been confused in regards to conducting MDT and Determination Notice of No Additional Testing at the same time instead of the IEP team using data to make that decision and choosing one or the other. Copying and pasting of annual goals without making any changes, and progress notes are showing improvement or they are the same year-to-year. Some documents in draft format (IEPs,) with many not understanding when the IEP meeting is completed, the IEP is final.

In MDTs some did not address educational needs and left the area blank, and also missed what criteria they used from Rule 51 to determine eligibility. Post-secondary transition still needs assistance on writing measurable postsecondary goals based on age-appropriate assessments (more than one) and in all areas employment, education/training, and independent living if needed. There have also been instances where the courses of study were missing or were only for the current year. Many districts are struggling with writing transition plans for students with more significant disabilities.

With State Assessment it was sometimes not clear if the student was taking the assessment with accommodations or alternate assessment. In instances where the student was taking an alternate assessment, some districts were not explaining why the student was taking the alternate assessment, just stating they can't take the general, but no reason. Other instances included not listing accommodations on the services page, so NDE could see the correlation to determine if the same accommodations were used for daily instruction and not just for assessment

Timeline issues involved IEPs more than one year past due (over 365 days), issues in a few regarding initial evaluation within 60 calendar days or 45 school days, but not to go over the 60 calendar days which is a federal requirement.

### **NDE-SPED Team Report – Disproportionality – Kris Elmshaeuser**

Kris shared that the NDE Office of Special Education is working with 3 districts on Action Plans and meet quarterly for updates. 19 districts have submitted data and a review of Policies Procedures and Practices. The equity team will review and determine if the disproportionality is due to inappropriate policies and procedures for Indicators 9 & 10.

### **NDE-SPED Team Report – RDA Stakeholder Meeting Update – Amy Rhone**

Amy discussed the IDEA Part C & Part B Stakeholder meetings that were held October 27-28, 2021. Amy expressed her appreciation to all of the SEAC members who were able to participate.

Amy shared that similar to today's meeting, much of the time was spent discussing the Statewide Level of Determination and Overview of the LOD, Nebraska Indicator Trend Data, Setting the stage for SPP/APR Baseline and Target Setting, Indicator Small Group Discussion, Indicator 17 - SSIP: All Group Discussion and a preview of NDE's newest initiative, the "Journey to Inclusion".

Amy explained that annually, the U.S. Department of Education (U.S. - D.O.E.) uses both results and compliance data in making determinations for each State under Section 616(d) of the IDEA. For 2021, the U.S. - D.O.E. considers the totality of the information they have about a State, including information related to the participation of children with disabilities (CWD) on regular Statewide assessments; the participation and performance of CWD on the most recently-administered (school year (SY) 2018-2019) National Assessment of Educational Progress (NAEP); exiting data on CWD who dropped out and CWD who graduated with a regular high school diploma; the State's Federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report (SPP/APR); information from monitoring and other public information, such as Department-imposed Specific Conditions on the State's grant award under Part B; the impact of Covid-19 on the State's ability to collect and report valid and reliable data; and other issues related to State compliance with IDEA.

In June of this year, the U. S. Department of Education released the 2021 determination under section 616 of the Individuals with Disabilities Education Act (IDEA). The Department has determined that Nebraska meets the

requirements in implementing the requirements of Part B of the IDEA. This determination is based on the totality of the State's data and information, including the Federal fiscal year (FFY) 2019 State Performance Plan/Annual Performance Report.

As required by IDEA, each State must report annually to the public, by posting on the State educational agency's (SEA's) website, the performance of each local educational agency (LEA) located in the State on the targets in the SPP/APR as soon as practicable, but no later than 120 days after the State's submission of its annual SPP/APR. In addition, each State must: (1) review LEA performance against targets in the State's SPP/APR; (2) determine if each LEA "meets the requirements" of Part B, or "needs assistance," "needs intervention," or "needs substantial intervention" in implementing Part B of the IDEA; (3) take appropriate enforcement action; and (4) inform each LEA of its determination.

Amy then reminded SEAC members that all of the Nebraska Department of Education Public Reporting can be accessed on the NDE/SPED Public Reporting Website at <https://www.education.ne.gov/sped/public-reporting/>

#### **NDE-SPED Team Report – 92 NAC 51 – State Complaint Filing Update – Kelly Wojcik**

Kelly gave the SEAC members an overview of the state complaints that have been filed so far for the 2021-2022 school year. As of December 2021, the State has a total of 15 state written complaints, nine have been fully investigated and are now working on corrective actions and six are currently under investigation with reports going out in late December 2021 or early January 2022.

Two of the cases specifically involved Covid-19 mask-wearing mandates and Kelly explained that Districts need to be cautious when implementing policies regarding remote instruction, mask mandates, and applying those policies to students with disabilities. Kelly reminded SEAC members that IEPs require individual consideration of the Revision of the IEP based on the child's anticipated needs and other matters (92 NAC 51- 007.10D and 007.10E) which include supplementary aids and services (92 NAC 51-007.07A5) and how disability affects involvement (92 NAC 51-007.07A1a). She went on to discuss placement (92 NAC 51-008.01E2) and LRE (92 NAC 51-008.01A).

Kelly also shared that OSERS issued the Return to School Roadmap: Development and Implementation of Individualized Education Programs in the Least Restrictive Environment under the Individuals with Disabilities Education Act which can be of assistance to districts as they navigate back to in-person learning.

#### **NDE-SPED Team Report – Special Education Teacher Retention Grant – Kris Elmshaeuser**

Kris discussed the importance of developing, refining, and taking to scale a comprehensive retention plan to reduce special education teacher attrition. This included discussing developing a system for collecting and reporting statewide SPED teacher retention data, developing a comprehensive retention plan that includes a leadership academy for administrators and mentoring program for early-career teachers, and implementing, testing, and refining comprehensive retention plans. Kris also discussed scaling up the comprehensive retention plan to schools statewide and fostering retention plan sustainability through partnerships and infrastructure changes.

#### **NDE-SPED Team Report – IDEA American Rescue Plan Funds – Amy Rhone**

Amy talked about the IDEA, ARP funds that are available currently to districts. Nebraska has been awarded approximately \$17 million in American Rescue Plan (ARP) - IDEA, Part B (611) and (619) funds. These additional funds will be added to the district IDEA Consolidated Grant for the 2021-22 school year and available for districts to budget expenditures. Districts were to complete the amendment for IDEA applications for the additional IDEA ARP allocations by September 25th.

Districts are encouraged to consider strategies and activities that are consistent with the Nebraska Department of Education's Renewal and Acceleration Framework. Implementation of Nebraska's Framework for School Renewal & Acceleration requires school districts and school systems to target resources to support four core actions, which are; (1) Anchor core instruction to high-quality instructional materials and content and move forward with appropriate supports and interventions, (2) Leverage and collect specific data to determine the level of support needed by all students, and in particular, students who have been historically marginalized, (3) Assess and attend to whole child needs (e.g. mental health, nutritional needs, etc.) while integrating and aligning to academic acceleration and (4), utilize community engagement and partnerships as strategies for maximizing every available resource.

Planning for effective uses of IDEA - ARP funds should be done within the broader context of schoolwide improvement initiatives that are designed to improve learning outcomes for all students. In 2019, 75% of all Nebraska students with disabilities spent at least 80% or more of their time in a regular education classroom. Districts are encouraged to use IDEA funds in the context of their overall plans for systemic school improvement. In appropriate cases, they may coordinate the use of IDEA - ARP funds with funds from other sources (e.g., regular IDEA Part B allocation, ESEA, SFSF, and State and local) consistent with Federal program requirements in school-wide initiatives to improve outcomes for all students, including students with disabilities. In other situations, Districts may use IDEA - ARP funds to exclusively support the unique special education and related services needs of students with disabilities in ways that complement the District's overall school improvement activities.

Before making decisions about how to spend ARP funds, Districts and schools should consider the views of a wide array of stakeholders, including general and special education, District and school leaders, as well as teachers, students, and families and review existing data, identify areas of greatest need, and focus on effective strategies that are consistent with their overall plan for improving student achievement effectively within two to three years.

#### **Approval to Adjourn Meeting**

Jean Anderson made a motion to adjourn the meeting, Barb Gentrup seconded, and the motion passed unanimously by member vote. The meeting adjourned at 3:42 p.m.

#### **The Motion carried**

The next meeting will be **Thursday, March 17, 2022, at 8:30 am** in-person at the Embassy Suites – Lincoln, there will **not** be a virtual attendance option for this meeting.

Respectfully submitted by:

Leslie Galloway  
SEAC Recorder



# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

An advisory panel providing policy guidance to the Nebraska Department of Education with respect to special education and related services for children with disabilities.

## March 17, 2022 – AGENDA

### ATTENDANCE IS IN-PERSON ONLY

Embassy Suites  
1040 P. Street  
Lincoln, NE 68508

8:30 REGISTRATION

9:00 WELCOME & INTRODUCTIONS

Kris Elmshaeuser  
Terry Houlton

### COUNCIL BUSINESS

Terry Houlton

- Open Meetings Law Announcement
- Notification posted in the Omaha World-Herald on March 3, 2022
- Approval of March 17, 2022 agenda \*
- Approval of December 9, 2021 Minutes \*
- Notice of Conferences/Meetings
- NASES Update – Lona Nelson
- SEAC Member Updates/News/Sharing
- Executive Board Meeting Report

### PUBLIC COMMENT \*\*

### DISCUSSION ITEMS

Kris Elmshaeuser

- Creating a Brief Document to Share About SEAC
- Assessment Scores So Parents Can Understand
- Professional Development from the Universities/Colleges that is Available for Special/Regular Education Teachers to Increase Their Knowledge
- State Performance Plan/Annual Performance Report – Targets Submitted
- State Systemic Improvement Plan (SSIP)

## NDE OFFICE OF SPECIAL EDUCATION TEAM REPORTS

Amy Rhone  
Kelly Wojcik &  
Kris Elmsheuser

- Journey to Inclusion
- Legislative Update
- Disproportionality Discipline Update
- Policies and Procedures
- State Complaint Update
- IDEA Part B & C Federal Applications
- Parent Surveys

ADJOURN

Terry Houlton

NEXT MEETING DATE: MAY 12, 2022

A VIRTUAL OPTION WILL NOT BE OFFERED FOR THE MAY 12, 2022 MEETING

### 2021-2022 MEETING DATES

- September 9, 2021 – Hybrid
- December 9, 2021 – Hybrid
- March 17, 2022 – **IN-PERSON ONLY**
- May 12, 2022 – **IN-PERSON ONLY**

### UPCOMING CONFERENCES:

- April 7-8, 2022 – ASD Network State Conference – Hybrid / Younes Center North, Kearney, NE
- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE)
- June 28-29, 2022 – Young Child Institute – Younes Conference Center, Kearney, NE

### NE SEAC EXECUTIVE COMMITTEE MEMBERS:

**Chairman** – Terry Houlton, (2021-2022) Director of Special Education Millard Schools, Omaha, NE  
Kasey Alexander, (2022-2023) Educator, West Point Schools, West Point, NE  
Sr. Janelle Buettner, (2023-2024) Principal, North American Martyrs Catholic School, Lincoln, NE  
Graciela Sharif, (2024-2025) Parent of a Student with a Disability, Community Parent Resource Coordinator-UNMC

\* Items requiring Council action

\*\* Per the SEAC Operating Procedures, opportunity for public comment is requested in advance

## UNDERSTANDING THE ADVISORY COUNCIL FUNCTIONS UNDER IDEA

*All Council activities should relate to one or more of the functions*

1. Advise the SEA of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
  - a) Training educations on working with children with Autism
  - b) Students not being adequately served in juvenile and adult correctional facilities
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
  - a) The federal law is reauthorized, and the State makes revisions to their regulations
3. Advise the State in developing evaluations and reporting on data to the Secretary under Section 618 of the Act. CFR 300.169(c) \*Grown the most since 2004
  - a) The SEA is reviewing and refining APR improvement strategies
  - b) Upon completion of a State and school district drill down, it was concluded that students with disabilities had lower graduation rates than students without disabilities.
4. Advise the State in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Act. CFR 300.169(d)
  - a) The State has just experienced an OSEP Visit and was found to be in noncompliance on various fiscal issues.
5. Advise the State in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169€
  - a) The SEA is proposing a new MOU with the Department of Corrections
  - b) The SEA is revising its MOU with the Department of Health
6. The SEA, after deleting personally identifiable information must
  - Provide the Advisory Council with the DPH findings and decisions and
  - Make those findings and decisions available to the public. CFR 300.513(d) & 300.514(c)
  - a) DPH decisions identify consistent issues.
  - b) The SEA has experienced a spike in DPHs
7. Waiver of non-supplant requirement. State must consult with the Advisory Council regarding provisions of FAPE. CFR 300.164(c)(4)
8. States retain discretion to determine the risk ration threshold above which disproportionality is significant so long as that threshold is reasonable and based on advice from their stakeholders, including their State Advisory Councils. 34 CFR 600.647(b)(iii)(A)



# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

In-person - Embassy Suites – Lincoln  
Virtually via Zoom Com.

March 17, 2022

### MINUTES

**SEAC MEMBERS PRESENT:** Anderson, Czepa, Edelbrock, Flott, Gentrup, Houlton, Jacobson, Jessop, Kelly, Kovar, Larsen, Serván, Sharif, Sommer, Stevens.

**PENDING SEAC MEMBER(S) PRESENT:** Thomas.

**MEMBERS ABSENT:** Alexander, Bohn, Bonn, Brightman, Buettner, Jorgenson, Kiernan, McNiff, Meints, Plog, Post, Russell, Kadavy, Wilson.

**NDE STAFF PRESENT:** Galloway, Rhone, Wojcik.

**SEAC FACILITATOR:** Elmsaeuser

*This meeting of the Special Education Advisory Council (SEAC) commenced at 9:26 a.m. Public notification of the meeting was on the Nebraska Department of Education website and in the Omaha World-Herald.*

#### **Welcome – Kris Elmsaeuser & Terry Houlton**

Kris and Terry welcomed the committee and reminded everyone about open meeting laws.

#### **Approval of March 17, 2022, Agenda**

Jean Anderson made a motion to approve today's agenda. Kristin Flott seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

#### **Approval of December 9, 2021, Meeting Minutes**

Barb Gentrup made a motion to approve the amended minutes of the meeting. Seamus Kelly seconded the motion and the motion passed unanimously by member vote.

Kelly - Abstained

**The motion carried.**

#### **Notice of Conferences/Meetings – Terry Houlton**

- April 7-8, 2022 – ASD Network State Conference – Hybrid / Younes Conference Center North, Kearney, NE
- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE
- June 28-29, 2022 – Young Child Institute – Hybrid / Younes Conference Center, Kearney, NE
- June 6-7, 2022 - LPS Supporting PBIS Conference – Virtual
- October 13-14, 2022 – NeMTSS Summit – Hybrid / Younes Conference Center North, Kearney, NE
- November 3-4, 2022 – Tri-State Law Conference – CHI Center, Omaha, NE

#### **NASES Update – Lona Nelson**

Lona shared that NASES has partnered with the NDE to host an upcoming spring conference. The conference will focus on Inclusive

Instructional Practices, and help to grow skills and philosophies around inclusivity in districts by inviting partners including school principles, NeMTSS teams, etc. who will discuss how to instill inclusivity in districts.

Lona also shared that NASES has been participating in liaison meetings with the NDE where participants discuss and share ideas and situations that may not be the same across the state. NASES appreciates this opportunity and is always actively seeking ways to collaborate and grow opportunities for students and their educational teams.

#### **SEAC Member Updates/News/Sharing – Terry Houlton**

Jean Anderson shared that she had been receiving very positive feedback from educators in her area that attended the NDE Transition Conference. Participants reported that they felt the information and lessons they engaged in can easily be taken back to and shared within their districts where they can be implemented to truly assist in transition programs and support students.

Lupe Stevens shared that Nebraska Voch. Rehab along with the Offices of Special Education and Nebraska Career & Technical Education received proposals for summer programs from across the state and are now in the process of completing 19 contracts. More information about these programs will be shared at a later date.

#### **Executive Committee Meeting Report – Terry Houlton**

Terry shared that the Executive Committee met on March 10, 2022, to set today's agenda. He explained that executive members, Kasey Alexander and Sr. Buettner were not able to attend today's meeting but both attended the executive committee meeting and participated in a great discussion about setting the agenda.

Terry reminded the SEAC that there is only one more scheduled meeting for the 2021-2022 term year. Members whose terms are ending but are eligible for a second term need to inform the SEAC Facilitator if they are interested in renewing their membership for a second 4-year term. Members who have served two consecutive 4-year terms must sit at least one term year out before they're eligible to renew their membership.

#### **Public Comment:**

Anne Thomas introduced herself to the SEAC members as she is in line to replace Dr. Johanna Higgins who recently resigned from her position at the University of Nebraska-Lincoln and hence her SEAC membership. Anne shared that Johanna had many positive things to say about the SEAC and that she is happy to become a member once her membership is approved by the State Board of Education.

Bradley A. Meurrens, MPA – Public Policy Director at Disability Rights Nebraska. spoke about initiatives around Supported Decision Making (SDM). He shared that a steering committee and task force with very broad and diverse stakeholders had been developed. One area in which stakeholders have identified as important to address is educators and administrators in the educational arena. Bradley shared that he is always willing to do presentations on this topic as he has done at the transition conference and will be doing at an upcoming brain injury conference. He encouraged anyone who would like more information and/or discuss areas of collaboration to please contact him and/or view the webinar on SDM at <https://youtu.be/tDSq-7E6EfU>.

#### **Discussion Item – Creating a Brief Document to Share About SEAC – Kris Elmshaeuser**

Kris discussed the need to create a one-page Nebraska SEAC Flyer that could be shared with interested parties regarding what exactly SEAC is and how it operates. Discussion amongst members was held regarding whether the flyer should be created by a sub-committee or the NDE and it was decided it would be created by a SEAC sub-committee and then shared with all members for final approval.

#### **Motion to Move SEAC Flyer from Discussion to Action**

Kami Jessop made a motion to move the SEAC Flyer from a Discussion Item to an Action Item. Jean Anderson seconded the motion and the motion passed unanimously by member vote.

Flott – Not in the Room for Voting

**The motion carried**

#### **Motion to Begin Process of Researching and Creating Draft for SEAC Members to Vote and Finalize SEAC Flyer**

Seamus Kelly made a motion to begin the process of researching and creating a draft for SEAC members to vote on and finalize the SEAC Flyer. Heidi Sommer seconded the motion and the motion passed unanimously by member vote.

Flott – Not in the Room for Voting

**The motion carried**

#### **Discussion Item – Assessment Scores So Parents Can Understand – Kris Elmshaeuser**

Kris discussed having Jeremy Heneger, the NDE Director of Statewide Assessment do another presentation at a future time regarding



changes to scoring assessments and assisting parents in understanding the scoring due to additional questions being raised regarding Measures of Academic Progress (MAP) and State Summative Testing.

Heidi Sommer shared that a lot of parents across the state do not understand the scores and if the scores are using their MDT, it becomes difficult to understand what the baselines are if they are on grade level and what the percentages mean related to peers on grade level. There is confusion with the various acronyms etc. and the confusion is widespread.

Terry Houlton shared that it is difficult because the scoring becomes technical so at his district, they use a base flyer for all students to help explain the scoring. The flyer is shared each time scores are shared and also included in newsletters etc. but his district is unsure how this will work with new testing. His district plans to monitor the new testing to decide how to move forward, especially if parents will be receiving scores three times a year.

Kristin Flott asked if there is a way for district SPED teams to create a document with testing dates etc. so parents can prepare for the testing. She pointed out that the school calendars do not necessarily include the SPED items going on throughout the year or when those tests will be meaningful. Christina Edelbrock reiterated what Kristin had said and added that explaining the difference between evaluations and assessments would also be beneficial to share with families.

Kelly Wojcik, NDE - Director of Accountability explained that the dates with the MAP assessments are set deadlines and shared on the NDE - Assessment webpage. Currently, the rule of thumb is the Fall window is the start of the school year through the end of November, the Winter window is December-February, and ending with the Spring assessment in March through the remainder of the school year. It is unknown at this time if the new testing will follow the same window schedule.

Graciela Sharif added that another layer of difficulty is that when working with non-English speaking families, the interpreter is the key, and a lot of times they don't understand what they are interpreting. There is a great need for interpreters to be more adequately trained to ensure they can explain what they are interpreting.

Kami Jessop shared that in regards to MDT meetings, it is vital that the entire MDT team understands the results and can explain them to the parents rather than trying to teach the parents to understand the technical terms.

#### **Discussion Item – Professional Development from the Universities/Colleges that is Available for Special/Regular Education Teachers to Increase Their Knowledge – Kris Elmsphaeuser**

Kris discussed how once educators graduate they still need continued training and that as our country is facing unprecedented staffing shortages, the need for actions in curtailing this shortage is of utmost importance. When teachers are engaged in learning, the lessons learned are valued and used, and most importantly, teachers stay in the profession longer. The University of Nebraska – Omaha (UNO) has a program that assists those with degrees in getting into the field of special education. The University of Nebraska – Kearney (UNK) has a similar program. Kris encouraged members to assist in spreading this information to those who may be interested and to reach out to the University of Nebraska – Lincoln (UNL) as well as colleges in surrounding states to inquire if they have similar programs or would consider adding similar programs.

Amy Rhone discussed issues like teacher shortages and the need for ongoing professional development along with demands placed on teachers creating additional challenges as many teachers do not have the availability to participate in training opportunities. Everyone needs to rethink how professional development is approached in an ever-changing world. For example, in-person training is ideal but making the development accessible is vital and of the utmost importance at this time. Many graduate programs and courses are offered online and UNL offers graduate certificates with this in mind to allow for more focused training being offered. Everyone must remain open to discussing other ways to meet the needs of teachers. Certain subjects can be taught in small doses but others take time and are more of an ongoing format. The UNL and SPED/Communications Disorders Programs are very open to new ways to support the state with ongoing professional development. The shortage is affecting everyone and UNL is very much aware that partnerships are needed to ensure professional development is ongoing and thus offers college credits as well as a certificate showing participants completed the training to encourage more people to participate.

Amy also shared that surveys of staff leaving the field of education have indicated, that the main reason staff is leaving is because the staff does not feel they are receiving adequate support from administrators. The surveys are also showing that the number one recruitment strategy is having friends and family already in the field. For this reason, Amy encouraged members who work in the profession to recognize the passion in others and encourage others to join the field as well.

Discussion on this topic was held amongst SEAC Members

**Discussion Item - State Performance Plan/Annual Performance Report – Targets Submitted – Kris Elmsaeuser & Kelly Wojcik**

Annually the NDE-OSE Office issues Public Reports to districts and districts, in turn, must report to their communities. The OSE Office also shares levels of determination with districts and districts are to share that information. The NDE also shares the Nebraska Educational Profile (NEP) on its website annually and it is accessible to the public on the NDE website.

Kris and Kelly then led an in-depth discussion regarding Indicators needing Targets, Stakeholder Engagement, and Evidence-Based Practices. SEAC members also participated in discussions around these topics.

**Discussion Item - State Systemic Improvement Plan (SSIP) - Kelly Wojcik**

Kelly addressed the SEAC with an update regarding the State Systemic Improvement Plan (SSIP) and Indicator 17 which has few changes.

Amy Rhone explained to members that when looking generally at Kindergarten through Grade 3 students without disabilities you see a natural decrease, but when you look at students with disabilities it begins increasing in later years begging the question of if students with disabilities had the same access to high-quality learning would that change when looking at the Least Restrictive Environment (LRE).

Heidi Sommer asked if students in Grade 4 are ever looked at and then followed up with in later years. Amy explained that up to this point, there has not been the ability to do that however, now Kindergarten data can be reviewed with the MAP assessments and followed through to 4 grade. Trend data could not be matched before but the NDE-OSE is working on a way to make it happen moving forward.

Kristen Larsen asked about the Covid-19 pandemic impact and whether Nebraska can compare to that of national, or does OSEP provide that. It was explained no, National Numbers can be compared because it is looked at broadly and specific pre-literature and language scores cannot be drilled down.

Language-rich environments are not the same as they previously researched showing children struggling in this area. Home and social environments also greatly influence this.

**NDE-SPED Team Report – Journey to Inclusion – Amy Rhone**

Amy shared that the NDE – Office of Special Education (OSE) is excited to partner with SPED Strategies, a Louisiana-based organization working to advance educational equity for students with disabilities. SPED Strategies works with states and now Nebraska school systems to build strong special education systems and advance inclusion and equity in the classroom. Amy shared with the SEAC that NDE, OSE along with SPED Strategies gave a presentation on Journey to Inclusion at the joint NDE/NASES meeting

Amy went on to explain that the percentage of special education students who spend most of their time in regular education classes is now 63.4%, up from 31.7% in 1989. Although that sounds great what needs to be focused on is that three models often play out in schools. The first is “exclusion” which occurs when students are directly or indirectly prevented from or denied access to education in any form, the second is segregation which occurs when the education of students with disabilities is provided in separate environments designed or used to respond to particular or various impairments, in isolation from students without disabilities and finally, the third is integration which many people think is inclusion but in reality, it is a process of placing persons with disabilities in existing mainstream educational institutions, as long as the former can adjust to standardized requirements of such institutions. Amy stated that she was sharing this because while the need to do better for our students is still there, we also need to honor our history as we have come a long way. We have moved from access to buildings and classrooms and now the focus must be on access to HQ / rigorous grade-level learning.

Amy explained that Nebraska’s Journey to Inclusion will launch small-scale pilots beginning in Spring 2022 that can serve as proof points to inform change in additional schools across Nebraska. Over the next 3 years, NDE and SPED Strategies will partner with local systems to, design the school-level conditions for inclusive education, equip general and special educators with the tools and skills they need to reach every learner and provide ongoing support and collaboration for inclusive education. She also shared that the two pilot districts selected to begin the Core Inclusion Project are Blair Community Schools and Scottsbluff Public Schools.

**NDE-SPED Team Report – Legislative Update – Amy Rhone**

Amy shared updates on Legislative Bills, 852, 1158, 1217, 1218, and 1251.

A discussion was held amongst SEAC members regarding concerns with tiering of children in LB1251 and how to support non-public needs while not supporting this particular plan. It is Federal law that states provide services to non-public students, however, the resident district can decide what those equitable services are. Nebraska State Statute adds that families choosing to enroll at non-public schools and/or those who opt into other districts receive full FAPE services from the district the family resides in. For example, many districts will send their staff to the non-public or opted into school for services. However, it is within the rights of the district to

say they will provide the services but require the student to come to the residential district building to receive such services. With the onslaught of teacher shortages happening across the country and in Nebraska, this is an obstacle that will likely see an increase in occurrences.

SEAC also discussed that while LB595 is currently a moot point as the Senator behind the bill resigned, discussion around this topic will continue as there are still supporters of this bill and it has the potential to be raised again.

#### **Rule 51 Update – Amy Rhone**

Amy shared that after a two-year process the update to Rule 51 is complete and as soon as the Governor signs it, it is in law. Districts are encouraged to begin preparing now because once it is in law, the NDE will begin monitoring.

The update to Rule 51, 007.07A9 states, “Beginning not later than the first IEP to be in effect when the child turns 14 and updated annually thereafter”. This replaces the previous wording of “16, or younger if deemed appropriate by the IEP team”.

#### **DMS 2.0 – Differentiated Monitoring and Support (DMS) 2.0 – Amy Rhone**

Beginning in the Federal fiscal year (FFY) 2021 Part B and Part C systems of general supervision will be monitored by OSEP in a five-year cycle. States will be assigned a specific monitoring cohort and, by cohort, will engage in a three-phase cycle of DMS 2.0 monitoring activities.

**Phase 1: Document Request and Protocol Interviews:** The OSEP monitoring team will begin working with the State to prepare for the Phase 2 visit. Phase 1 will occur 5 months before the Phase 2 on-site/virtual visit. The OSEP monitoring team will review all publicly available information before working with the State. State engagement will include responses to OSEP’s requests for documents and targeted interviews on the component-specific protocols.

**Phase 2: On-site/Virtual Visit through issuing of the Monitoring Report:** Based on information collected during the Phase 1 work, OSEP will develop an agenda for the on-site/virtual visit with participating states focusing on the issues that require further exploration, deeper looks, or additional discussions.

**Phase 3: Follow-up and Close-out:** In the year following the on-site visit, the OSEP will work with the State to ensure the correction of any remaining outstanding findings, provide technical assistance, and support, and discuss progress in improving identified results areas.

The monitoring protocols will guide OSEP’s Phase 1 inquiry and state engagement. They are organized by an overarching topical question and focus area related to the monitoring component, general information about what States need to answer the question, follow-up questions to more closely examine general information provided by the State, and possible areas for additional focus or support that could result in areas of identified concern or noncompliance.

#### **NDE-SPED Team Report – Disproportionality Discipline Update – Kris Elmshaeuser**

Districts were notified in February of Disproportionality in Discipline. There were no districts found to have Disproportionate Representation or Significant Discrepancy in Discipline. Three Districts were identified in the Cautionary Zone

#### **NDE-SPED Team Report – Policies and Procedures – Kris Elmshaeuser**

Kris shared with SEAC that all districts need to upload Policies and Procedures by March 31, 2022. She also shared the Policies and Procedures Guidance Document created by the NDE, OSE, and Facilitation of Policies and Procedures discussions.

#### **NDE-SPED Team Report – State Complaint Update – Kelly Wojcik**

Kelly shared that as of March 15, the State has a total of 24 state-written complaints. 15 have been fully investigated and are now working on corrective action and seven are currently under investigation.

Kelly explained that NDE - OSE expects to possibly reach 30 complaints this school year as several of the complaints have been systemic (not just about one child) and complaints are becoming more numerous and in-depth and have been broached into systemic. The overall themes of complaints range from basic provision of FAPE, several ChildFind issues, accusations of a district not finding a student eligible, the development of the IEP as a whole, and independent evaluations. Those examples are the heart of the issues but become more specific under larger umbrellas.

#### **MONITORING – Kelly Wojcik**

Kelly shared that NECounts Risk Analysis is completed and that districts identified through the analysis have been notified. Areas identified as “high” or “medium” risk will be targeted in the file review process as monitoring will no longer look at everything in the file and instead will now target specific data elements that identify the district in files and policies and procedures etc.

**NDE-SPED Team Report – IDEA Part B & C Federal Applications – Amy Rhone**

The IDEA Parts B and C applications for states to receive federal funding will be available for public review and comment beginning this month.

The Nebraska Part B Application, which includes the Statements of Assurances will be available for Public Comment March 28 - April 26, 2022; and for Public Review March 28- May 26, 2022. The application must be submitted to OSEP by May 27, 2022. Upon approval, Nebraska will receive IDEA federal funding on July 1, 2022, to support the state's Part B 611 (school age) and 619 (preschool) programs.

The IDEA Part C Application, which includes a Statement of Assurances and funding information, is available for public review from March 11<sup>th</sup> through May 12, 2022, with public comment from March 11<sup>th</sup> through April 10<sup>th</sup>, 2022. Federal funds received under the Part C Application are used by the Nebraska Departments of Education and Health and Human Services, school districts, and other service providers in the provision of early intervention/special education and related services to children with verified disabilities from the date of diagnosis to age three.

Both applications are available for review and public commenting on the NDE Office of Special Education Public Reporting Webpage as well as at 2 public educational offices in the state, (1) Educational Service Unit #13, 4215 Ave I, Scottsbluff, NE 69361; (2) Educational Service Unit #3, 6949 South 110th Street, Omaha, Nebraska 68128.

**NDE-SPED Team Report – Parent Surveys – Amy Rhone**

Amy shared that surveys were sent to all districts on February 9 and were provided links for parents and guardians to access online. Surveys are due by April 1, 2022.

**Office of SPED Revisions – Amy Rhone**

Amy shared upcoming staffing changes within the NDE – OSE. These changes include new additions to the office as well as upcoming additions.

Darsha Pelland has been hired as the new Director of Low Incidence and will begin July 5, Jamie Chambers transitioned from her role as an Education Specialist to the role of Part B Data Manager on February 1, and Christopher Chambers has been promoted to an Education Specialist III. Three additional Education Specialist positions will be filled as well as an IDEA Fiscal Specialist.

Reminders about attendance in by-laws and needing a quorum.

**Approval to Adjourn Meeting**

Jean Anderson made a motion to adjourn the meeting, Heidi Sommer seconded, and the motion passed unanimously by member vote. The meeting adjourned at 2:37 p.m.

**The Motion carried**

The next meeting will be **Thursday, May 12, 2022, at 9:00 am** in-person at the Embassy Suites – Lincoln, there will **not** be a virtual attendance option for this meeting.

Respectfully submitted by:

Leslie Galloway  
SEAC Recorder



# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

An advisory panel providing policy guidance to the Nebraska Department of Education with respect to special education and related services for children with disabilities.

### May 12, 2022 – AGENDA

#### ATTENDANCE IS IN-PERSON ONLY

Embassy Suites  
1040 P. Street  
Lincoln, NE 68508

8:30 REGISTRATION

9:00 WELCOME & INTRODUCTIONS

Kris Elmshaeuser  
Terry Houlton

#### COUNCIL BUSINESS

Terry Houlton

- Open Meetings Law Announcement
- Notification posted in the Omaha World-Herald on April 29, 2022
- Approval of May 12, 2022 agenda \*
- Approval of March 17, 2022 Minutes \*
- Notice of Conferences/Meetings
- NASES Update – Lona Nelson
- SEAC Member Updates/News/Sharing
- Executive Board Meeting Report
- Recognition of SEAC Members whose Terms are Ending

#### PUBLIC COMMENT \*\*

#### DISCUSSION ITEMS

Kris Elmshaeuser  
Terry Houlton

- Develop a Summer Sub-Committee to Create a Nebraska SEAC Flyer
- Professional Development Available for Special/Regular Education Teachers to Increase their Knowledge-DD Council Funding Opportunity (Kristen Larsen)
- General Questions about to whom the Nebraska SEAC can Submit Advisory Letters, Public Comments, etc.(when can a member as a SEAC member act publicly on behalf of SEAC) Clarifying the Distinction Between Advising/Lobbying
  - Could SEAC create policy statements or position statements annually based on legislative proposals or other “hot areas”?

## NDE/ OFFICE OF SPECIAL EDUCATION TEAM REPORTS

Amy Rhone  
Kris Elmsheuser  
Chris Chambers  
Jamie Chambers  
Theresa Hayes  
Mary Lenser  
Tammy Barry  
Juan Roman

- Director's Updates
- NSCAS Update
- ASD Network Update (Annette Wragge, UNL ASD Network – Project Director)

ADJOURN

Terry Houlton

NEXT MEETING DATE: MAY 12, 2022

### 2022-2023 MEETING DATES (Tentative)

- September 8, 2022
- December 8, 2022
- March 9, 2023
- May 11, 2023

### UPCOMING CONFERENCES:

- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE
- June 28-29, 2022 – Young Child Institute – Younes Conference Center, Kearney, NE
- October 13-14, 2022 – NeMTSS Summit – Younes Conference Center-North, Kearney, NE
- November 3-4, 2022 – Tri-State Law Conference – CHI Health Center, Omaha, NE

### NE SEAC EXECUTIVE COMMITTEE MEMBERS:

**Chairman** – Terry Houlton, (2021-2022) Director of Special Education Millard Schools, Omaha, NE

Kasey Alexander, (2022-2023) Educator, West Point Schools, West Point, NE

Sr. Janelle Buettner, (2023-2024) Principal, North American Martyrs Catholic School, Lincoln, NE

Graciela Sharif, (2024-2025) Parent of a Student with a Disability, Community Parent Resource Coordinator-UNMC

\* Items requiring Council action

\*\* Per the SEAC Operating Procedures, opportunity for public comment is requested in advance

## UNDERSTANDING THE ADVISORY COUNCIL FUNCTIONS UNDER IDEA

*All Council activities should relate to one or more of the functions*

1. Advise the SEA of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
  - a) Training educations on working with children with Autism
  - b) Students not being adequately served in juvenile and adult correctional facilities
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
  - a) The federal law is reauthorized, and the State makes revisions to their regulations
3. Advise the State in developing evaluations and reporting on data to the Secretary under Section 618 of the Act. CFR 300.169(c) \*Grown the most since 2004
  - a) The SEA is reviewing and refining APR improvement strategies
  - b) Upon completion of a State and school district drill down, it was concluded that students with disabilities had lower graduation rates than students without disabilities.
4. Advise the State in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Act. CFR 300.169(d)
  - a) The State has just experienced an OSEP Visit and was found to be in noncompliance on various fiscal issues.
5. Advise the State in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169€
  - a) The SEA is proposing a new MOU with the Department of Corrections
  - b) The SEA is revising its MOU with the Department of Health
6. The SEA, after deleting personally identifiable information must
  - Provide the Advisory Council with the DPH findings and decisions and
  - Make those findings and decisions available to the public. CFR 300.513(d) & 300.514(c)
  - a) DPH decisions identify consistent issues.
  - b) The SEA has experienced a spike in DPHs
7. Waiver of non-supplant requirement. State must consult with the Advisory Council regarding provisions of FAPE. CFR 300.164(c)(4)
8. States retain discretion to determine the risk ration threshold above which disproportionality is significant so long as that threshold is reasonable and based on advice from their stakeholders, including their State Advisory Councils. 34 CFR 600.647(b)(iii)(A)



# NEBRASKA

## DEPARTMENT OF EDUCATION

### NEBRASKA SPECIAL EDUCATION ADVISORY COUNCIL

In-person - Embassy Suites – Lincoln

May 12, 2022

### MINUTES

**SEAC MEMBERS PRESENT:** Alexander, Anderson, Bonn, Brightman, Buettner, Czepa, Edelbrock, Flott, Gentrup, Houlton, Jacobson, Jessop, Jorgenson, Kelly, Kiernan, Kovar, Larsen, McNiff, Plog, Russell, Serván, Sharif, Sommer, Stevens, Thomas, Wilson.

**MEMBERS ABSENT:** Bohn, Kadavy, Meints, Post,

**NDE STAFF PRESENT:** T. Barry, C. Chambers, J. Chambers, Galloway, Hayes, Lenser, Rhone.

**SEAC FACILITATOR:** Elmshaeuser

*This meeting of the Special Education Advisory Council (SEAC) commenced at 9:00 a.m. Public notification of the meeting was on the Nebraska Department of Education website and in the Omaha World-Herald.*

#### **Welcome – Kris Elmshaeuser & Terry Houlton**

Kris and Terry welcomed the committee and reminded everyone about open meeting laws.

#### **Approval of May 12, 2022, Agenda**

Carlos Serván made a motion to approve today's agenda. Kristin Flott seconded the motion and the motion passed unanimously by member vote.

**The motion carried.**

#### **Approval of March 17, 2022, Meeting Minutes**

Jean Anderson made a motion to approve the amended minutes of the meeting. Kristin Flott seconded the motion and the motion passed by member vote.

Abstain: Alexander, Bonn, Buettner

**The motion carried.**

#### **Notice of Conferences/Meetings – Terry Houlton**

- June 1-2, 2022 – Nebraska School Mental Health Conference – Embassy Suites, La Vista, NE
- June 6-7, 2022 - LPS Supporting PBIS Conference – Virtual
- June 28-29, 2022 – Young Child Institute – Hybrid / Younes Conference Center, Kearney, NE
- October 13-14, 2022 – NeMTSS Summit – Hybrid / Younes Conference Center North, Kearney, NE
- November 3-4, 2022 – Tri-State Law Conference – CHI Center, Omaha, NE



#### **NASES Update – Lona Nelson**

Lona shared that the NASES Spring Conference held in collaboration with the Nebraska Department of Education was well attended and attendees including general education partners had the opportunity to hear from two speakers discussing the importance of CORE and Universal Instruction. She also shared that NASES members will be in Washington D.C. this summer to speak with Senators and/or their Offices to advocate for support for students with disabilities.

Lona shared that for the 2022-23 school year, the NASES Board will include McKayla LaBorde as the Past-President thus replacing Lona as the NASES SEAC Liaison, Misty Bear, as NASES President, and Betsy Skelcher as President-Elect.

#### **SEAC Member Updates/News/Sharing – Terry Houlton**

Jean Anderson shared that The ATP Education Program's Loan Pool is relocating. As this move is occurring, however, some important dates need to be communicated. From May 1st through July 15th, the loan pool will be unavailable and will not process new loan requests during this time. Any items currently on loan during this period should be returned using the UPS label or by arranging pick up when the item's loan period has ended. To be clear, loan periods on any existing loans are not shortened or impacted by this relocation. On July 15<sup>th</sup>, the loan program will resume normal operations. The loan pool once relocated, will continue to serve schools and education programs throughout Nebraska. Requests to borrow items will continue to be available through [education.at4all.com](http://education.at4all.com) when normal operations resume.

Carlos Serván, Executive Director at the Nebraska Commission for the Blind and Visually Impaired reminded members that they also provide equipment and technology to students who are blind and/or visually impaired and anyone interested can contact him for more information.

Amy Bonn shared that she is working with a parent initiative regarding a local Board of Education in Wyoming having nutritional requirements for health education standards for high school students stemming from a state statute from the early 1980s. Anyone interested in more information can visit the Wyoming Department of Education Advisory Panel webpage at <https://edu.wyoming.gov/for-district-leadership/special-programs/wapsd-advisory-panel/> or may contact her for more information.

#### **Executive Committee Meeting Report – Terry Houlton**

Terry shared that the Executive Committee met on May 3, 2022, to set today's agenda and discuss possible future meeting topics.

#### **Recognition of SEAC Members whose Terms are ending**

Kris Elmsaeuser recognized the SEAC Members whose terms ended with today's meeting.

SEAC Recorder, Leslie Galloway shared with members that the plaques given to members who completed their terms over the last two years have been made and will be delivered over the next few months. Historically members are presented with their plaques at their final meeting, however, due to the Covid-19 Pandemic awards have not been able to be given out until now.

#### **Public Comment:**

No individuals requested public comment.

#### **Discussion Item – SEAC Flyer**

Members discussed the need to create an informational flyer regarding what the SEAC is as well as creating a small summer sub-committee that will then report back in the Fall with a draft of the flyer for all of the SEAC to review and approve. The flyer will be an overview of the goals of the SEAC that members can share with interested parties. The flyer will be beneficial to many including state senators, members of the public, and most importantly parents and families of Nebraska students.

Terry Houlton, Mandy Plog, and Heidi Sommer, along with the SEAC facilitator, Kris were selected as the sub-committee.

**Professional Development Available for Special/Regular Education Teachers to Increase their Knowledge- DD Council Funding Opportunity (Kristen Larsen)**

Kristen shared that the Nebraska Department of Health and Human Services is focusing on an RFA Grant for the next Financial Fiscal Year to address direct support for professionals and teacher shortages.

Kristen also shared exciting news from the Nebraska Council on Developmental Disabilities (NCDD). The Council's Planning Committee met on April 7, 2022, to select the RFA funding priorities that the full Council approved at their meeting on April 8. NCDD voted to approve an RFA of up to \$50,000 for an entity to develop and maintain an online clearinghouse of classes and pieces of training for regular and special education teachers. The focus of this project will fall under the Council's State Plan Goal Three, Objective A. Kristen explained that this online one-stop shop for educators could be posted on state or district websites which would be beneficial for teachers.

Kristen then accepted feedback from members with the understanding that while the Council will not have control over what districts offer, they will share feedback with the districts.

Discussion amongst SEAC members regarding this topic was held and Kristen thanked everyone for their feedback.

**General Questions about to whom the Nebraska SEAC can Submit Advisory Letters, Public Comments, etc. (when can a member as a SEAC member act publicly on behalf of SEAC) Clarifying the Distinction Between Advising/Lobbying - Could SEAC create policy statements or position statements annually based on legislative proposals or other "hot areas"?**

Kris reviewed with members the SEAC Orientation Manual, Committee Duties, and Council Role and Responsibilities.

Amy Bonn shared that she has been inspired by the sub-committee work our SEAC has completed coming together with what is best for Nebraska students. Amy shared examples of how some other states have been advocating and is looking forward to continuing this type of work within Nebraska.

**Motion to Amend Today's Agenda**

Sr. Janelle Buettner made a motion to amend today's agenda to add exploring changes to the SEAC Operating Procedures and by-laws, developing a position statement to present to the State Board of Education and Archiving of Positions the SEAC has taken. Carlos Serván seconded the motion and the motion passed unanimously by member vote.

**The motion carried**

Members then engaged in a discussion regarding creating a continual running document of what the SEAC is working on, developing a position statement for presentation to the State Board of Education, and possible future changes to the SEAC operating procedures and by-laws.

**Motion to Have Committee Begin Working on Amending the SEAC Operating Procedures Regarding What is to Be Done to Work with the State Board of Education and Other Entities.**

Carlos Serván made a motion to have the SEAC committee begin working on amending the SEAC Operating Procedures regarding what is to be done to work with the State Board of Education and other entities. Seamus Kelly seconded the motion and the motion passed unanimously by member vote.

**The motion carried**

Discussion amongst SEAC members was then held regarding beginning work on amending the SEAC Operating Procedures.

**Motion to Propose Archiving Previous Position Statements the SEAC Has Made to Ensure Statements Are Available to All Council Members.**

Terry Houlton made a motion to propose archiving previous position statements the SEAC has made to ensure statements are available to all council members. Jean Anderson seconded the motion and the motion passed unanimously by member vote.

**The motion carried**

Discussion amongst SEAC members regarding archiving previous position statements the SEAC has made to ensure statements are available to all council members was held.

**Motion to have SEAC Prepare & Deliver Position Statements for Students with Disabilities Before the Annual Legislative Session.**

Jean Anderson made a motion to have SEAC prepare & deliver position statements for students with disabilities before the annual legislative session. Mary Jorgensen seconded the motion and the motion passed unanimously by member vote.

**The motion carried**

Individual brainstorming and discussion amongst members were then held. Topics for potential position statements for SEAC included restraint and seclusion, SPED funding reimbursement, transition to adulthood job training, transfer and acceptance of credits varying across school boards and wards of the state who move, and the effects on their Individual Education Plan (IEP). Additional topics that were discussed were focusing on the Americans with Disabilities Act (ADA) and how it pertains to students with disabilities, transition supports, alternatives to guardianship as well as guardianship and supported decision making, teacher workforce shortage, marginalized groups, school building accessibility concerns if a pandemic were to happen again. The final topics discussed today were around English learners, philosophy on inclusionary practices, the importance of braille literacy, the school to prison pipeline, waivers, curriculum and testing, CRT and school choice, teacher retention and attracting qualified resources, parent and community involvement, disproportionality, and suspensions regarding people of color, and coordination between agencies and departments.

The SEAC Executive Committee will meet to discuss these topics in further detail and will bring this discussion back to the members at a future meeting.

**NDE-SPED Team Report – Directors Updates – Amy Rhone**

Amy shared that annually the Office of Special Education submits the Part B and Part C Applications to the U.S. Department of Education, Office of Special Education Programs (OSEP) for approval of the federal grant awards under each part of the IDEA. The Nebraska Part B Application is available for Public Review through May 26, 2022. The application must be submitted to OSEP by May 27, 2022. Upon approval, Nebraska will receive IDEA federal funding on July 1, 2022, to support the state's Part B 611 (school age) and 619 (preschool) programs. The Nebraska Part C application will be submitted to OSEP by May 13, 2022. Upon approval, Nebraska receives approximately \$3 million in federal funding on July 1, 2022, to support the state's early intervention program.

Amy reminded members that The Nebraska Department of Education (NDE), Office of Special Education is on a Journey to Inclusion as all students deserve a high-quality education that prepares them for future success. To realize this vision, all students with disabilities must have equitable access to the full rigor of grade-level instruction. However, districts, schools, classrooms, and families often encounter significant challenges in enacting the systems, structures, support, and development needed to ensure equitable access for all learners. With best intentions, these groups often unintentionally exacerbate persistent inequities. Inclusive education provides a model for providing high-quality equitable educational programming that improves access and opportunities for all learners. The NDE Office of Special Education is partnering with SPED Strategies through an ESSERS sub-award to provide a pilot program to enhance school/district learning around Inclusive learning to be able to build out statewide support over the next 3 years. This work ties nicely into the school improvement work currently being done in conjunction with the NDE Office of Coordinated School and District Support, and many of the other projects being run in coordination with several other offices.

Amy went on to share that a newly released fast fact from the Office of Special Education Programs (OSEP) focused on the population of students with disabilities who are English Learners. The overall number of school-aged students with disabilities who are also English Learners (ELs) in the U.S. has seen a noteworthy increase in recent years, according to statistics released by the U.S. Education Department's Office of Special Education Program in [OSEP Fast Facts: Students with Disabilities Who are English Learners Served by IDEA Part B](#). OSEP's statistics show that 5-to-21-year-old students with disabilities who are ELs were more likely to be designated to have specified learning disabilities, speech or language impairments, or intellectual disabilities in the 2020-21 school year than other students with disabilities. The same population was less likely than other students to attend a regular classroom for at least 80 percent of the day, according to the report.

Amy also shared that a new guidance document titled How to Write Measurable IEP Goals is now available. This document can be found on the Assessment, Instruction, and Achievement page. This page includes documents, links, and/or information to assist users in locating information on academic standards, accommodations, accessibility, statewide assessment, and Results Matter.

Amy then gave a brief Legislative Update regarding LB 1014 regarding Coronavirus State Fiscal Recovery Funds (CSFRF) Appropriations. She also shared that Governor Ricketts is expected to sign today, the most recent regulatory updates made to Rule 51 which will change the age of transition planning to begin at age 14 from 16 as stated in regulations previously.

#### **NDE-SPED Team Report – Amy Rhone**

Amy discussed upcoming events within the Office of Special Education as well as the upcoming Nebraska Young Child Institute, the Deaf-Blind Summer Institute, and the NeMTSS Summit. She reminded members to contact the SEAC Recorder, Leslie Galloway if interested in attending an event as a SEAC member.

#### **NDE-SPED Team Report – ASD Network Update – Annette Wragge, UNL ASD Network – Project Director**

Annette Wragge, Project Director of the UNL ASD Network shared a brief overview of the ASD Network and the work they engage in. Annette encouraged members to visit the ASD Network website where there are over 70 webinars available that are beneficial to first-time parents, specialists in both general and special education, and members of the public in the field of Autism.

Annette also discussed with members pieces of training being offered during summer explaining that more were being offered during the summer months due to ongoing teacher shortages and the desire to help make pieces of training more accessible during non-school hours.

#### **Approval to Adjourn Meeting**

Jean Anderson made a motion to adjourn the meeting, Matt McNiff seconded, and the motion passed unanimously by member vote. The meeting adjourned at 2:40 p.m.

#### **The Motion carried**

The next meeting will be **Thursday, September 8, 2022, at 9:00 am** in-person at the Embassy Suites – Lincoln, there may be a virtual attendance option for this meeting.

Respectfully submitted by:

Leslie Galloway  
SEAC Recorder

## **UNDERSTANDING THE ADVISORY COUNCIL FUNCTIONS UNDER IDEA**

All Council activities should relate to one or more of the functions

1. Advise the SEA of unmet needs within the State in the education of children with disabilities. CFR 300.169(a)
  - a. Training educations on working with children with Autism
  - b. Students not being adequately served in juvenile and adult correctional facilities
2. Comment publicly on any rules or regulations proposed by the State regarding the education of children with disabilities. CFR 300.169(b)
  - a. The federal law is reauthorized and the State makes revisions to their regulations
3. Advise the State in developing evaluations and reporting on data to the Secretary under Section 618 of the Act. CFR 300.169(c) \*Grown the most since 2004
  - a. The SEA is reviewing and refining APR improvement strategies
  - b. Upon completion of a State and school district drill down, it was concluded that students with disabilities had lower graduation rates than students without disabilities.
4. Advise the State in developing corrective action plans to address finding identified in federal monitoring reports under Part B of the Act. CFR 300.169(d)
  - a. The State has just experienced an OSEP Visit and was found to be in noncompliance on various fiscal issues.
5. Advise the State in developing and implementing policies relating to the coordination of services for children with disabilities. CFR 300.169€
  - a. The SEA is proposing a new MOU with the Department of Corrections
  - b. The SEA is revising its MOU with the Department of Health
6. The SEA, after deleting personally identifiable information must
  - Provide the Advisory Council with the DPH findings and decisions and
  - Make those finding and decisions available to the public. CFR 300.513(d) & 300.514(c)
  - a. DPH decisions identify consistent issues.
  - b. The SEA has experienced a spike in DPHs
7. Waiver of non-supplant requirement. State must consult with the Advisory Council regarding provisions of FAPE. CFR 300.164(c)(4)
8. States retain discretion to determine the risk ration threshold above which disproportionality is significant so long as that threshold is reasonable and based on advice from their stakeholders, including their State Advisory Councils. 34 CFR 600.647(b)(iii)(A)

## **2022-2023 SEAC MEETING SCHEDULE**

All meetings are held at the Embassy Suites, located at 1040 P Street in Lincoln, Nebraska. They begin at 8:30 a.m. and conclude when a motion to adjourn has been approved. Some meetings may also be attended via Zoom.

September 8, 2022

December 8, 2022

March 9, 2023

May 11, 2023

Further information regarding SEAC or this report may be directed to Kris Elmshaeuser at [kris.elmshaeuser@nebraska.gov](mailto:kris.elmshaeuser@nebraska.gov).