



# IDEA Advisory Meeting

## MINUTES

DECEMBER 5, 2024

9:00 AM – 2:30 P.M.

VIRTUAL MEETING

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
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| <b>MEETING CALLED BY</b> | Mary McCarvel-O'Connor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>TYPE OF MEETING</b>   | IDEA Advisory Meeting                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>FACILITATOR</b>       | Mary McCarvel-O'Connor                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>NOTE TAKER</b>        | Michelle Souther                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>ATTENDEES</b>         | Michelle Souther, Tina Degree, Colette Fleck, Katy Barnum, Dr. Patti Mahar, Dr. Nicole Reybok, Brenda Ruehl, Kayla Stastny, Michelle Pfaff, Jessica HowlingWolf, Michael Netzloff, Kristina Heinle, Jordan Anderson, Mary McCarvel-O'Connor, Jacqueline Adusumilli, Rachel Tabler, Janakate Walker, Andrea Johnson, Lea Kugel, Jen Withers, Cassandra Bartelson, Alyssa Kramer, Katherine Terras, Grace Hudson, Jeff Anderson, Fayme Stringer Henry, Brooke Tayer, Debbe Poitra, Grace Larsen, Jodi Webb, Aimee Easton, Jessica Dargis, Beth Marschner, Tammie O'Toole, Lucy Fredericks |

## Agenda topics

### TITLE 9 – INCREASE IN YOUNG CHILDREN WITH SEVERE DISABILITIES, OCR COMPLAINTS

LEA KUGEL

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| <b>DISCUSSION</b> | <p>The information in this handout comes from the Office for Civil Rights (OCR) and Office of Special Education Programs (OSEP). It is intended to be used for general information only and is not to be considered specific legal advice. If specific legal advice is sought, consult an attorney.</p> <p>45 CFR Part 86 - Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance</p> <p>34 CFR Part 86.31 – Education Programs or Activities</p> <p>General: No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or other education program or activity operated by a recipient which receives Federal financial assistance.</p> <p><b>Specific prohibition.</b></p> <p><b>A recipient shall not, on the basis of sex:</b></p> <ol style="list-style-type: none"> <li>1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service.</li> <li>2) Provide different aid, benefits or services, or provide aid, benefits, or services in a different manner.</li> <li>3) Deny any person any such aid, benefit, or service.</li> <li>4) Subject to any person to separate or different rules of behavior, sanctions, or other treatment.</li> <li>5) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-State fees and tuition.</li> <li>6) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit, or service to students or employees.</li> <li>7) Otherwise, limit any person in the enjoyment of any right to privilege, advantage, or opportunity.</li> </ol> <p>In addition, the school can not force any student to follow different rules than the other students. They cannot use the basis of sex to make eligibility determinations for fees and tuition, and cannot provide aid to any agency that does discriminate against an individual on the basis of sex or cannot limit anyone in the enjoyment of other rights.</p> <ul style="list-style-type: none"> <li>• Comparable facilities: The school may provide separate toilets, locker rooms, and shower facilities on the basis of sex, but such facilities provided for students of one sex must be comparable to students of the other sex.</li> <li>• Access to Schools: The school cannot exclude any person from admission.</li> <li>• Counseling: A school can not discriminate against a person on the basis of sex in counseling or guidance sessions and may not use different materials for students on the basis of sex.</li> </ul> |
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- Financial Assistance: A school can not discriminate against a person on the basis of sex when determining amounts of financial assistance, types of scholarships, and must provide reasonable opportunities for members of each sex to receive athletic scholarships.
- Athletics: No person shall, on the basis of sex, be excluded from participation in any interscholastic club or athletics offered by the school

**Respond Promptly and effectively to potential sex discrimination, including sexual harassment**

34 CFR Sec. 106.2 Sex-based harassment:

- Quid pro quo harassment
- Specific Offenses
- Hostile environment

Notify the Title IX Coordinator with sexual discrimination

25 IDELR 994 and 6 GASLD 17 court cases.

Title IX requires districts to respond promptly and effectively to complaints which can include sexual harassment. The Code of Federal Regulations defines sexual harassment as quid pro quo harassment (ex: when an employee conditions a benefit on a person's participation in unwelcome sexual conduct), specific offenses which could include sexual assault, dating violence, domestic violence, and stalking). Hostile environment harassment means unwelcome sex-based conduct that is so severe that it limits or denies a person's ability to participate in or benefit from receiving an education.

If a person in the school system is aware of sexual discrimination or harassment taking place, they must inform the Title IX Coordinator.

Oakland case: Parent alleged that their 9-year-old student was sexually assaulted by another student in a bathroom and the school did not appropriately address the situation. OCR found that the district properly investigated the incident and took steps to prevent any additional possibility of sexual assault by proposing a new placement for the student in another school.

**Requirements:**

Nondiscrimination policy.

Grievance procedures.

Notice of nondiscrimination

Each school district has requirements they must implement under Title IX. Each district must adopt, publish, and implement a policy stating that they do not discriminate on the basis of sex and prohibits sex discrimination in any education program or activity that it operates. In addition, a recipient must adopt, publish, and implement grievance procedures that provide for the prompt and equitable resolution of complaints made by students, employees, or other individuals in school. The district must provide a notice of nondiscrimination.

**Students with Disabilities –**

- Title IX consultation with IEP member(s) or team responsible for following IDEA -34 CFR 300.321
- Title IX Consultation with the professional designated to provide support to students with disabilities under Section 504 -29 U.S.C. 794

If there is a Title IX allegation involving a student with a disability, it is important to include either the IEP team members or the professional responsible for implementing 504s within the school.

Title IX prohibits sex-based discrimination in educational settings, which can include sexual harassment or gender-based misconduct. While most cases involve students as complainants, teachers and staff are also protected under Title IX, meaning they could file complaints if subjected to harassment or discrimination. The student's conduct must constitute either sexual harassment, sexual violence, or gender-based discrimination that significantly impacts the teacher's ability to perform their job or creates a hostile work environment. School policies should also protect teachers.

North Dakota Century Code - <https://ndlegis.gov/cencode/t12-1c01.pdf>

North Dakota and Mississippi have seen an uptick in Title 9 cases.

**DISCUSSION**

DMS Monitoring – OSEP met with Pathfinders, parents, school administrators, school providers and IDEA Advisory Committee members. OSEP still needs to meet with protection and advocacy. NDDPI's virtual meeting with OSEP is scheduled for January 6-10<sup>th</sup>. Technical assistance providers will be invited to attend the OSEP meeting. OSEP has 120 days to complete the monitoring report.

## BEHAVIOR/MENTAL HEALTH SUPPORT

KATHERINE TERRAS

**DISCUSSION****Katherine Terras**

Co-Founder & Chief Executive Officer

**Certification Central** is an alternative certification program established to train and mentor educators and behavior technicians. This program is designed for teachers, paraprofessionals, and registered behavior technicians.

Katherine spends the majority of her time in school consulting on behavior support.

**Behavioral Characteristics:**

- Preschool and kindergarten students have needs that are multiple and severe.
  - Teachers are doing more toilet training and teaching students how to with utensils
- Behaviors that are becoming more common include: urinating, disrobing, and unwanted touching. Typically displayed by students who have ID and ASD.
- Students with emotional needs seem more verbally and physically aggressive.

**Needed Supports/Services:**

- Students need special education teachers onsite, not virtually.
- General education needs Tier 2/MTSS model behavioral supports.
- IEP Teams need to make decisions about a student's least restrictive environment.
- They need access to the full continuum of alternative placements per IDEA.

**Barriers:**

- Teaching online may be more preferred because of the flexibility and safety.
- General education teachers have limited behavior training.
- Overreliance on special education to lead the way.
- Limited long-term, therapeutic placements for students who have mental health needs.
- Students need to have case management through a human service zone for more restrictive settings.
- Students are being removed from residential settings due "severity" and returned to neighborhood schools. This needs to be a team decision.

[Resources by Region](#)

A lot of paraprofessionals are going through the process of becoming a licensed teacher. Teachers are working extremely hard to support students. The special education coordinator's positions have changed. They are working on the administrative side and still have a caseload and travel to different schools to serve students. Special Education teachers are being asked to be part of the extended school program. The concern is that it may lead to burnout for our teachers. Overuse of technology. Assessment and measurement gaps. A Statewide task force for special education will be created to study the impact that mental health is having on the educational system. We need to build capacity in our general education teachers.

As an advisory committee, would you like to create some subgroups to help with this? NDDPI has purchased Goalbook to help teachers write effective goals. We are working with the REAs to create training for paraprofessionals. Educational Hub has lots of training for teachers. Behavior code and behavior code companion are on the Educational Hub. You can provide the professional development but they have to want to implement the behavior plans with fidelity. How do we get buy-in? How do we create change? What role could the IDEA Advisory Committee play in helping get the word out? Do workgroups in regional areas get communication and education going? Do we need to look at how we provide services at the younger age? Behavior is a huge issue in childcare. There isn't enough knowledge and lots of turnover in childcare. Resources – statewide – local. How do you professionals and parents access them? Nicole and Chris will send out a request to create some subcommittees to address this issue. The subcommittee will look at how to get communication out to parents and professionals and provide some feedback to NDDPI. Pathfinders is willing to help get some resources out to professionals and parents. ND Special Education Consortium is going to try to get a group of legislators together and look at the statewide task force recommendations and move it to the next step. The Consortium would like to collaborate with the IDEA Advisory in the future on this endeavor.

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|  | <p>Compiling a list of resources by age/grade for families, teachers, providers would be a great start. Information tends to travel/be shared slowly.</p> <p>A Child Find presentation was given to pediatricians from across North Dakota by NDDPI. A recommendation for future presentations to psychiatrists, licensed social workers and therapists was given to NDDPI. Another recommendation of sharing the presentation with special education directors so they can share the information locally was also given.</p> <p><a href="https://ndcpd.org/echo/">https://ndcpd.org/echo/</a></p> <p>PSND Upcoming trainings; <a href="https://www.pathfinder-nd.org/calendar.php">https://www.pathfinder-nd.org/calendar.php</a></p> |
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## LEGISLATIVE TOPICS THAT AFFECT STUDENTS

MARY MCCARVEL-O'CONNOR

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| <b>DISCUSSION</b> | <p>Chapter 15.1-32 Special Education</p> <ul style="list-style-type: none"> <li>• Change emotional disturbance to emotional disability</li> <li>• Change hearing impairment to deaf/hard of hearing</li> <li>• Repeal these Century Codes <ul style="list-style-type: none"> <li>○ 15.1-18-05 Special education strategist credential</li> <li>○ 15.1-18-06 Provisional special education strategist credential</li> </ul> </li> </ul> <p>This Century Code was repealed and moved to ESPB but this one was missed.</p> <p>15.1-19-09 – Suspension/Expulsion in North Dakota – A student may be suspended for up to ten days for insubordination, habitual indolence, disorderly conduct, or for violating a school district weapons policy. This gives the schools the right to suspend a child for being lazy. We are removing this from North Dakota Century Code since it is subjective. A legislator will draft a bill and remove this language.</p> <p><a href="#">North Dakota Century Code t15.1c19</a></p> |
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## SPP/APR

ALYSSA KRAMER

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| <b>DISCUSSION</b> | <p>Graduation – Indicator 1 – Target – 76.53% - Rate 77.06%. Target was met.</p> <p>Dropout – Indicator 2 – Target 18.09% - Rate – 20.82%. – Target not met.</p> <p>Assessment – Indicator 3 – Participation Rate -Grade 4 – ELA &amp; Math both met target.</p> <ul style="list-style-type: none"> <li>• Grade 8 – ELA &amp; Math – did not meet the target.</li> <li>• Grade 10 &amp; 11 – ELA &amp; Math – we are waiting for ACT results, so we don't have this data yet.</li> </ul> <p>Proficiency Rate for Regular Assessment</p> <ul style="list-style-type: none"> <li>• Grade 4 – ELA &amp; Math met target</li> <li>• Grade 8 – ELA met target – Math did not meet target</li> <li>• Grade 10 – ELA – 9.53% met target</li> <li>• Grade 11 – Math did not meet target</li> </ul> <p>Proficiency Rate on the Alternate Assessment</p> <ul style="list-style-type: none"> <li>• Grade 4, 8, 10, 11 – Math &amp; ELA did not meet targets</li> </ul> <p>Suspension/Expulsion – Indicator 4:</p> <ul style="list-style-type: none"> <li>• Districts having an OVERALL significant discrepancy rate – met target – Target rate – 7.00% Rate - 2.87%</li> <li>• Districts having a significant discrepancy rate by race/ethnicity – did not meet the target – Target is 0% - Rate - 4.02%</li> <li>• OSEP has created a new technical assistance center that will be working on Indicators 4, 9 &amp; 10. The technical assistance center will be providing assistance on what to do if a district is found significantly disproportionate.</li> </ul> <p>Indicator 5 – Least Restrictive Environment:</p> <ul style="list-style-type: none"> <li>• Regular Classroom – Target – 73.67% - Rate -73.19% - did not meet target</li> <li>• Separate Classroom – Target – 6.42% - Rate -7.46% - did not meet target</li> <li>• Separate Facilities – Target – 1.58% - Rate – 1.32% - met target</li> </ul> <p>Indicator 6 – Least Restrictive Environment for Preschool Students</p> <ul style="list-style-type: none"> <li>• Regular Classroom – Target 22.10% - Rate – 17.95% - Target not met</li> <li>• Separate Classroom – Target – 40.23% - Rate – 39.68% - Target met</li> <li>• Separate Facilities – Target 1.26% - Rate - .92% - Target met</li> </ul> <p>Indicator 7 –Child Outcomes</p> <p>Indicator 8 – Parent Involvement – Target – 68.80% - Rate – 63.42% - Target not met. We have been working on getting surveys back but also making sure parents are involved.</p> <p>Indicator 9 – Disproportionate Representation – Target 0% - Rate 0% - Target met. This is a compliance indicator so the target is set at 0% by OSEP.</p> <p>Indicator 10 – Disproportionate Representation by Disability Category – Target – 0% -Rate – 1.15% - Target not met.</p> |
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|  | <p>Indicator 11 – Child Find – Target – 100% - Rate – 98.29% - Target not met. This is a compliance indicator so the target is set 100% by OSEP.</p> <p>Indicator 12 – Early Childhood Transition – Target – 100% - Rate – 100% - Target met. This is a compliance indicator.</p> <p>Indicator 13 – Secondary Transition – Target – 100% - Rate 85.11% - Target not met. This is a compliance indicator.</p> <p>Indicator 14 – Post-School Outcomes – Target met.</p> <p>Indicator 15 &amp; 16 – Dispute Resolution &amp; Mediation - We don't report this since the numbers are under 10.</p> <p>Indicator 17 – SSIP – Graduation Rates for Students with ED.</p> <p>Indicator 18 – General Supervision is new this year. This is a compliance indicator. Percentage of findings of non-compliance corrected within one year of identification.</p> <p>State staff are meeting next week to review data, and Alyssa can provide more information at the next meeting. As an advisory committee, what are your recommendations for setting targets? Nicole thinks we should give it some more time to see what happens. Any ideas, on what NDDPI could do to meet some of these targets? NDDPI received an SPDG grant and hopefully, that will help.</p> |
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| <b>DISCUSSION</b> |  |
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| SUGGESTIONS SUMMARY                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                           |                 |
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| <b>Issues and Concerns in our State:</b> No issues.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |                           |                 |
| <b>ACTION ITEMS</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | <b>PERSON RESPONSIBLE</b> | <b>DEADLINE</b> |
| <p>The September meeting minutes were approved. Jodi Webb made the motion, and Patti Mahar seconded.</p> <p>The meeting was adjourned at 2:30 p.m. Brenda Ruehl made the motion to adjourn, and Jeff Anderson seconded it.</p> <p><b>Public Comment:</b></p> <p>I know we have spoken a lot today about behavioral students. For students with medical needs, how do you address them to get their needs met better in school? Most schools, in my experience, don't have a nurse. So, if something medical happens I feel like schools need help. But how? If additional support is needed. Family Voices has that expertise, and they focus on the medical aspect, and Pathfinders focuses on the rights of special education services. Building a relationship with your IEP team.</p> <p>Save the Date: Pathway to Partnerships conference will be April 26th in Minot! Registration opening soon.</p> <p>The March meeting is scheduled for March 6, 2025.</p> <p>Agenda Items for the March meeting:</p> <ul style="list-style-type: none"> <li>• Truancy and Chronic Absenteeism – CHINS &amp; CHIPS? Preventable strategies, Lack of resources available to parents to get students to school</li> <li>• COVID – how did that affect students' attendance? Data?</li> <li>• Federation of Families Presentation on Mental Health and Absenteeism</li> <li>• Someone from DHHS because each county interprets it differently</li> <li>• OCR Presentation?</li> <li>• IDEA-B Application</li> <li>• Legislative Update</li> </ul> |                           |                 |