

**Wisconsin Council on Special Education Final Minutes**

September 11, 2020

10:00 am – 3:00 pm

Department of Public Instruction, Virtual Meeting

Meeting #327

**DPI Attendance:** Barbara Van Haren, Julia Hartwig, Lynn Winn, Courtney Jenkins, Daniel Parker, Rita Fuller, Marge Resan, Tim Peerenboom

**Council Attendance:** Pamela Hencke, Nelsinia Ramos, Loucricia Carson, Nicole Vander Meulen, Judy Conlin, Julie Lidbury, Carla Witkowski, Deb Rathermel, Erin Arango-Escalante, Hugh Davis, Jennifer Mims-Howell, Kelley Mechelke, Lisa Misco, Nikki Sprague, Sara Zwiefelhofers, Shannon Mattox, Meredith Dressel, and Michelle Johnson

**Public Appearances:** One public appearance greeted the council.

**I. Opening**

A. Meeting called to order at 10:02am.

**II. Welcome New Council Members & Introductions**

A. Chair called on council members and each introduced themselves.

**III. Minutes of Meeting #326**

A. Chair motioned for an approval for meeting minutes.

1. Deb Rathermel motioned to approve minutes.
2. Nicki Vander Meulen seconded motion to approve minutes.
3. Council voted to approve minutes with no amendments.

**IV. Correspondence/Chairperson's Report**

A. Chair's Annual Report

1. Council chair provided an overview of the council's annual report for the 2019-2020 school year that will be submitted to the State Superintendent.

B. Review of Council's Documents and Procedures

1. Council chair provided an overview of updates made to the council policies and procedures document.
2. Council reviewed a table summarizing council's priorities for the year. These priorities were discussed and developed based on council input from the previous year. The table aligned council priorities with DPI's five focus areas.
3. Council reviewed 2020-21 public forum dates and public forum process. The public forum will be both a 2-hour virtual event on a single day as well as an online commenting period that will be open the same week of the virtual

public forum so that participants can also provide comments through an online form. Council reviewed the English and Spanish Public Forum fliers and encouraged all council members to disseminate widely to families and attend the forum.

4. Council chair reviewed the council nomination procedures, current nominations received, and provided an opportunity for additional nominations for new council chair and vice chair. Council members could provide nominations in chat to all council or provide nominations privately to the DPI meeting facilitator using chat. The chair asked if there were any questions about the role of chair or co-chair. No questions were asked.

## **V. IDEA Complaint and Due Process hearing Findings & Decisions**

- A. Council questions were answered by Marge Resan, DPI procedural compliance consultant. Council members' concerns involved topics of child find, training opportunities for families to know how to advocate for their children, and making additions to the complaint and decisions reports to include race, data collection, and district size. Council commented that the average parent isn't aware that DPI is an available resource to support their child's education or that DPI has a state complaint process and many families do not know who to talk to if they have a concern. Recommendations to support families included the Wisconsin Statewide Parent Educator Initiative (WSPEI), Wisconsin Family Assistance Center for Education, Training, and Support (WIFACETS), and WI Family Ties.

## **VI. Chair Nominations**

- A. Council nominees provided a short introduction of their background and experience prior to voting. The council chair facilitated the introductions and DPI staff facilitated council votes using a google form. Hugh Davis was elected council chair and Nelsinia Ramos was elected co-chair.

## **VII. Special Education Team Director's Report**

- A. Julia Hartwig, Special Education Team Director, delivered a report that included updates on staffing, the Office of Special Education Programs (OSEP), state and federal regulations, DPI updates, grant updates, and updates on bulletins and guidance.
  1. The director welcomed new council members and those returning to a new three-year term, as well as welcoming one new DPI Special Education Team staff. Ryan Gollner is the new Director of the Wisconsin Education Service Program for the Deaf and Hard of Hearing (WESP-DHH).
  2. There will be a new differentiated monitoring system from OSEP with a new five-year cycle. DPI is awaiting additional information on details of this new monitoring system. There have been no COVID-19 flexibilities from OSEP at this time and we are expecting statewide assessments to continue as scheduled at this time.
  3. The DPI Special Education Team has outlined that districts must be prepared to provide a Free and Appropriate Public Education (FAPE) to students who

receive special education through an Individualized Education Program (IEP) at the start of the school year, regardless of the school district's plan for returning to school, a change in school building closing, or changes to in-person instruction during the year.

- a. DPI has guidance related to development of contingency plans to revise IEPs to document how FAPE will be provided.
  - b. DPI encourages school staff and families to work together to problem solve on how best to support individual students based on their unique needs through IEP team conversations or using the I-10 form to document parent agreement with services provided if a contingency plan is required.
  - c. DPI also strongly emphasizes the importance of monitoring progress to ensure students are making progress on IEP goals and in the general education curriculum to ensure FAPE.
4. An update on the Dane County public health order was provided to clarify that in-person instruction for students with IEPs is a decision between school staff and parents on a case-by-case basis through IEP conversations. The decision for any in-person instruction should be based on the unique needs of each student and keeping the health and safety of students and staff in mind.
  5. An update was provided on Wisconsin's seclusion and restraint law. On March 4, 2020, 2019 Wis. Act 118 went into effect, which revised Wisconsin state law on the use of seclusion and restraint in schools. DPI has developed two documents highlighting these changes. One document provides a side-by-side comparison of the former requirement versus the new requirement. The other document provides a summary of the revisions. These documents are posted on the DPI website under the topic heading "seclusion and restraint." As part of these revisions, each local education agency (LEA) must now report seclusion and restraint data disaggregated by school to DPI by December 1<sup>st</sup>. Beginning on October 2, all district administrators throughout the state will receive an emailed link to a personalized Qualtrics survey, which will be used to enter and submit all required seclusion and restraint data for their LEA.
  6. On May 19, 2020, the U.S. Department of Education published new Title IX regulations covering sexual harassment, sex discrimination, and sexual assault in education programs and activities. The new regulations require school districts to develop and adopt policies and procedures for investigating and resolving complaints of sexual harassment or sexual violence. The mandated policies and procedures are significantly more complex than what had previously been required. Information about the new regulations may be found on the Wisconsin Association of School Boards website. On Sept. 4, 2020, the U.S. Education Department's Office for Civil Rights also released Questions and Answers regarding the new Title IX regulations.
  7. An announcement was made that DPI is seeking a council representative

with knowledge of how to utilize data and who is interested in serving on a monthly DPI workgroup to align our evaluation projects and bring the perspective of people with disabilities.

## VIII. Lunch Break

### IX. Special Report: Overview of Special Education Return to School Guidance

- A. DPI Special Education Team administrators shared resources, guidance, and updates specific to COVID-19 and school closure. The documents and resources summarized are all available on the [DPI special education team COVID-19 web page](#). Council members were encouraged to review and follow updates on the [special education COVID 19 question and answer document](#). In addition, there are several projects related to CARES Act funding and supporting the COVID-19 public health emergency, including CARES Act-funded projects for Universal Design for Learning and one for assistive technology that can be found by searching the DPI web page or on the [DPI CARES Act Education Stabilization Funds page](#). Additional events and free community of practice web meetings can be found on the [DPI professional learning events page](#).

### X. Special Report: Changes to PI-11

- A. Carl Bryan gave an overview of the Administrative Rule Making Process and Daniel Parker provided an overview and solicited input from council on recommendations for rule changes based on the scope of statements approved by the governor's office.
1. Council supported revisions for both rules for a focus that would lead to more comprehensive assessment and looking at the whole child. Council also commented on the importance of objective data and ensuring educators understand and use culturally responsive assessments and interventions.
  2. Council discussed the emotional behavioral disability impairment rule. Although they encouraged that assessment criteria include a review of behavioral and social and emotional interventions that have been used with a student, council cautioned against any changes that might lead to students not getting identified. These are students who may need FAPE protections and IEP services immediately and council did not want evaluation timelines extended, nor any delay in referrals for an evaluation. Council also recognized the need to address language in the emotional behavioral disability rule to address bias that may lead to racial disproportionality and highlighted the need for more objective criteria to ensure appropriate identifications and not lead to identification of more students.
  3. For speech or language impairment, council commented that they do not want a student's home or native language to count against them to ensure IEP teams are looking at language ability versus language differences. Council also recommended consulting with English Language Learner staff from schools to get input on potential rule changes. Council provided positive feedback on the removal of some of the exclusionary criteria

outlined in the potential rule change.

4. Council members were invited to join additional focus group meetings to discuss potential rule changes to the emotional behavioral disability and speech or language impairment rules and a number of council members volunteered to provide additional input with these focus groups.

**B. Scope Statements on Potential Rule Changes**

1. SS 105-20 speech or language impairment criteria:  
[https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss\\_105\\_20/ss\\_105\\_20](https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss_105_20/ss_105_20)
2. SS 106-20 emotional behavior disability criteria:  
[https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss\\_106\\_20/ss\\_106\\_20](https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss_106_20/ss_106_20)
3. SS 107-20 sensory impairment terminology and deaf-blindness:  
[https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss\\_107\\_20/ss\\_107\\_20](https://docs.legis.wisconsin.gov/code/register/2020/776a2/register/ss/ss_107_20/ss_107_20)

**XI. New & Old Business**

- A. No updates provided.

**XII. Agenda Topics for December's Meeting.**

- A. No topics suggested.

**XIII. Council Member Reports and Issues**

**A. Additional Resources**

1. Department of Children and Families (DCF) Critical Conversation Topics and Considerations: Information on Child Care  
<https://dcf.wisconsin.gov/files/childcare/covid/pdf/backtoschool/critical-conversations-public-schools-eceprograms-final.pdf>
2. Department of Children and Families (DCF) Public School-Early Childhood Education Program Partnerships in Fall 2020  
<https://dcf.wisconsin.gov/files/childcare/covid/pdf/backtoschool/fall-2020-public-school-ece-partnerships-final.pdf>
3. Department of Children and Families (DCF) Roles and Responsibilities for the 2020-21 School Year  
<https://dcf.wisconsin.gov/files/childcare/covid/pdf/backtoschool/provider-teacher-expectations-2020-2021.pdf>
4. Department of Children and Families (DCF) Wisconsin Shares Child Care Subsidy for School-Agers- parent letter  
<https://dcf.wisconsin.gov/files/childcare/covid/pdf/backtoschool/parent-letter-fall2020-schoolyear.pdf>
5. Web page: Department of Children and Families Fall 2020 School Year Guidance for the Early Care and Education Community  
<https://dcf.wisconsin.gov/covid-19/childcare/families>

**XIV. Announcements**

- A. State Superintendent's Leadership Conference (TBD)
- B. Public Forum (October 14, 2020)
- C. Next Meeting Date (December 4, 2020)

**XV. Public Appearances**

- A. No public appearances.

**XVI. Adjournment**

- A. Meeting adjourned at 2:51pm.