SOUTH CAROLINA
STATE DEPARTMENT
OF EDUCATION

Fall 2012 Special Education Administrators Conference

September 27 – 28, 2012

Brookland Conference Center

Office of Exceptional Children

Thursday, September 27, 2012

Office of Exceptional Children

The morning breakfasts are arranged by SC CASE

We'd like to thank our administrative staff in planning of Fall 2012 Administrators Conference

Marlene Sellars, B'Evelyn Jackson, Trishun Milhouse, Becky Rush, Brenda Turner, and Julie Whitman

SOUTH CAROLINA
STATE DEPARTMENT
OF EDUCATION

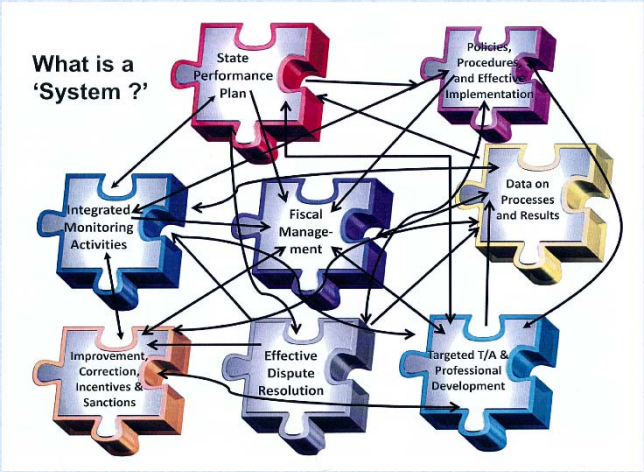
OPENING COMMENTS

DR. MICK ZAIS, SUPERINTENDENT

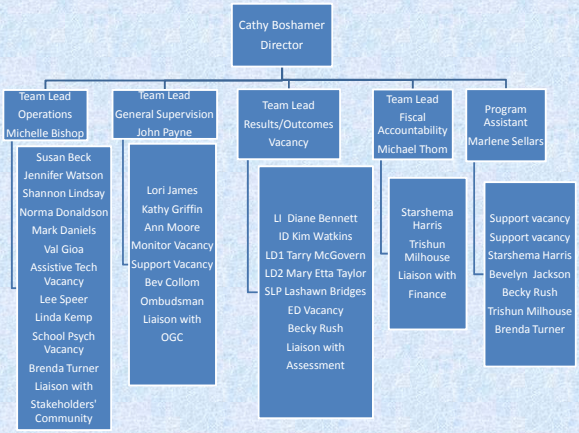
CATHY BOSHAMER, DIRECTOR

Office of Exceptional Children Vision

The Office of Exceptional Children ensures that all children with disabilities in the state have available a free appropriate public education (FAPE), protects the rights of these children and their parents, and provides leadership to school districts and state-operated programs in the provision of appropriate special educational services.



OFFICE OF EXCEPTIONAL CHILDREN

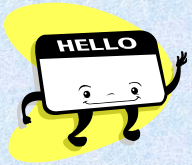


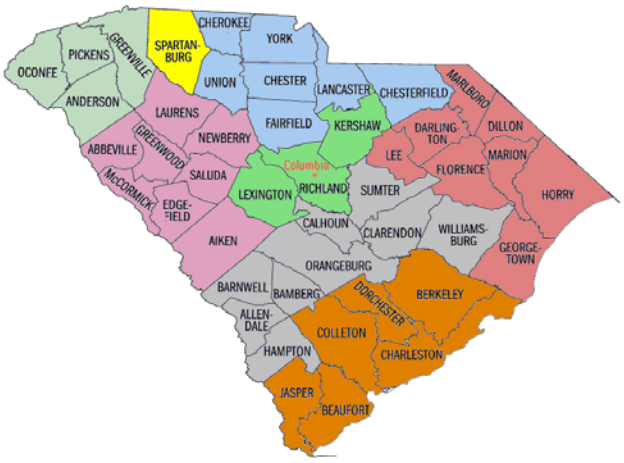
New Staff

- Dianne Bennett, Low Incidence Disabilities
- Kathy Griffin, Onsite Monitor
- Sharshema Harris, Finance Support
- LaShawn Thomas-Bridges, SLP
- Michael Thom, Team Leader for Finance
- Kim Watkins, Intellectual Disabilities
- Julie Whitman, Administrative Support

New Assignments

- Team Leaders – Michelle Bishop, John Payne, Michael Thom, and RDA Vacancy TBD
- Project Managers
- RTFs, Group Homes, and Alternative Schools – Bev Collom





Vacancies and Interviews

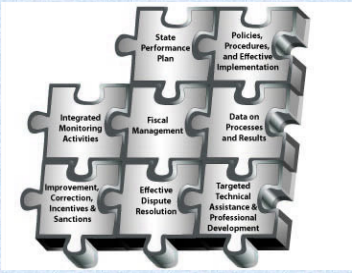
- Results Driven Accountability Team Lead
- School Psychologist
- Assistive Technology Specialist
- Onsite Monitor
- Emotional Disabilities/Project Manager
- Ombudsman
- Administrative Assistant

Farewells to…

- Amelia Bouknight – Administrative Assistant
  - Retired with 43 years experience as the Admin Assistant for the Office of Exceptional Children
- Elizabeth Stout – Intellectual Disabilities
  - Consultant for Richland School District One

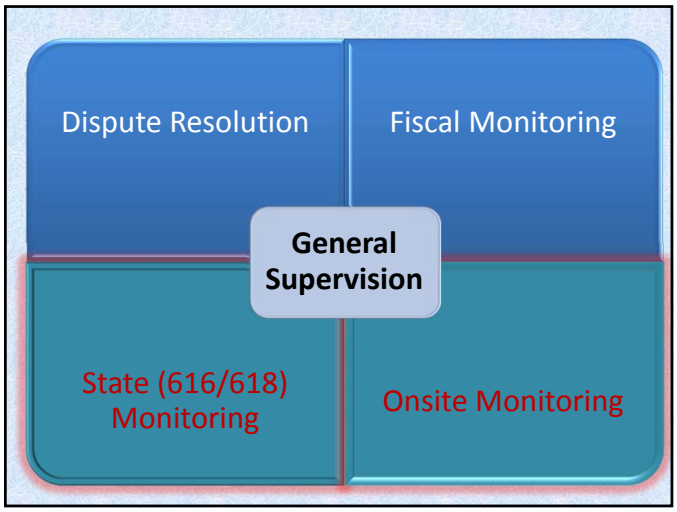
2012 – 2013 Initiatives

- Building Shared Capacity
- Implementing Common Core State Standards
- General Supervision changes and updates
  - Dispute Resolution
  - SPP/APR
  - Onsite Monitoring
  - Fiscal Accountability
- Results Driven Accountability
- SC Gateways: From Cradles to Careers



John Payne, Team Leader, General Supervision

GENERAL SUPERVISION



Dispute Resolution

- Focus on increasing informal dispute resolutions, facilitated IEPs and mediations
- Formal complaints will be a joint effort between the Office of General Counsel and the Office of Exceptional Children

616 and 618 Changes

- LEAs will be required to **SUBMIT** all data to the OEC on or before the due dates
- Reports with student-level data **MUST** be encrypted with AxCrypt software
- Passwords will be provided prior to the due dates for submissions requiring encryption
- Official (final) submissions must be sent to the exceptional children email account
- Pre-checks will be conducted *as requested* & should be sent to the designated staff

Timely & Accurate Data

- Timely Submission
- Accurate / Valid / and Pass Edit Checks
- Respond to Verification or Error Correction

- Findings (34 C.F.R. § 300.211)
- Determinations
- Withholding of funds

Table 8 (MOER & CEIS)

- LEAs will be responsible for completing Section D (OEC will complete A through C)
- Upcoming Webinar will address specifics of this report
- Please consult the OEC Data Calendar for dates and check your emails!
- Contact Michael Thom (Finance) or Lori James (Data)

Child Count

- Dates are outlined in the OEC Data Calendar
- Child Count will be reflective of December 1, 2012
  - Since this is a Saturday, final count will be reflective of the close-of-business on Friday, November 30, 2012
- **DO NOT** send Child Count Certification until duplicates and 10-day exits have been resolved, AND any required revisions have been made
- Contact Lori James at lajames@ed.sc.gov

Indicators 11 and 12

- Finalizing FFY 2011 data
- For FFY 2012 (2012-2013), LEAs will be required to SUBMIT *encrypted* reports to the OEC
- LEAs will be required to "code" each student, using rubrics provided by the OEC
- LEAs must ensure that documentation is being provided regarding IDEA requirements

Indicator 11 (and 12, too!)

- Must show multiple attempts in multiple methods, and results of those attempts to ensure a timely evaluation
- Must show parent involvement
- Evaluations must be sufficiently comprehensive to address all the child's special education and related service needs, whether or not commonly linked to the category of disability suspected
- Must occur WITHIN 60-calendar days **UNLESS** the parent delays the process; **OR** if the child *moves into a LEA during an evaluation in process* **AND** the parent and LEA complete a written agreement for a reasonable extension
- PWN must be sent if parent fails to respond or produce the child

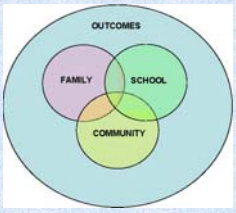
Indicator 12

- LEA has child find responsibilities and must follow-up with all children properly referred from Part C to Part B
- Dismissal from BabyNet; BabyNet (EI) reporting that parent is not interested in Part B services; & parent not attending Transition Conference DOES NOT end the LEA's obligation of child find. LEAs should follow procedures as with all other referrals
- If parents are not interested or no reason to suspect a disability, send PWN accordingly

Indicators 8 & 14

Indicator 8 – Parent Involvement

Percent of parents with a child receiving special education services who report that schools facilitated parent involvement as a means of improving services and results for children with disabilities



Indicator 8 – Parent Involvement

- Using local vendor
- Online surveys
- Please encourage parents to use your facilities, local libraries and other locations to complete surveys
- Please market to parents during your survey year.
- **Upcoming** – Report Submission for Addresses

Indicator 8 – Fall Surveys

- Allendale
- Anderson 04
- Calhoun
- Charleston
- Cherokee
- Jasper
- Greenville
- Lexington 01
- Newberry
- Orangeburg 03
- Orangeburg 04
- Saluda
- Spartanburg 04
- Spartanburg 05
- York 02

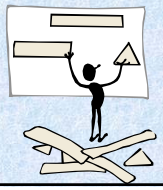
New Excent Report – Please ensure that contact info is up-to-date!

Indicator 14

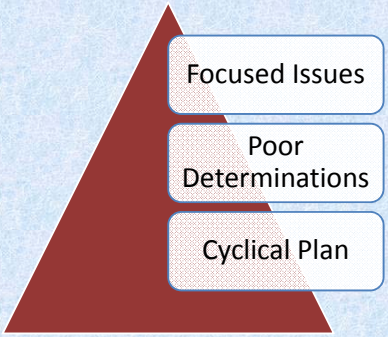
- ***Need assistance*** in marketing these surveys to parents and students as they leave high school
- ***Need assistance*** in ensuring that contact information is up-to-date when students exit
- **Upcoming** – Report Submission for Addresses

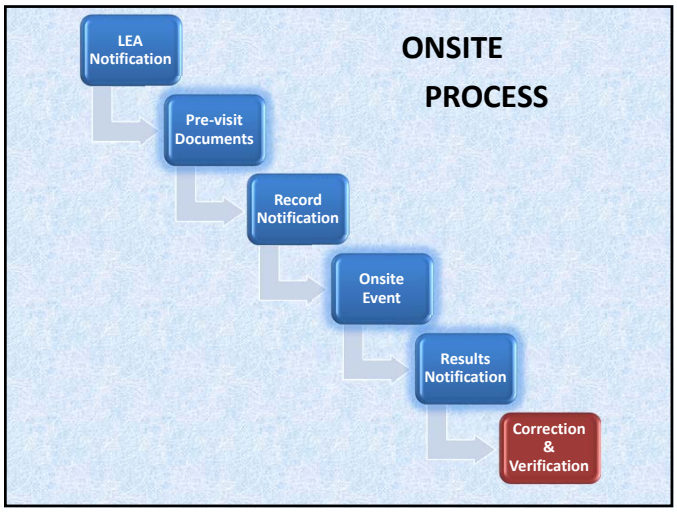
SPP/APR

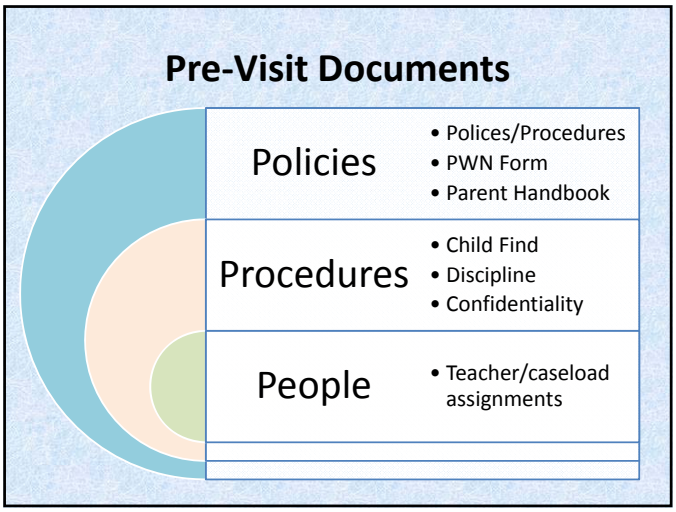
- Reporting on Preschool LRE (Indicator 6)
- Indicators 16-17 and 20 are eliminated
- Under-representation is eliminated from Indicators 9 and 10
- Reporting Table 4 data (again) for Indicator 2 (Drop-out rate)

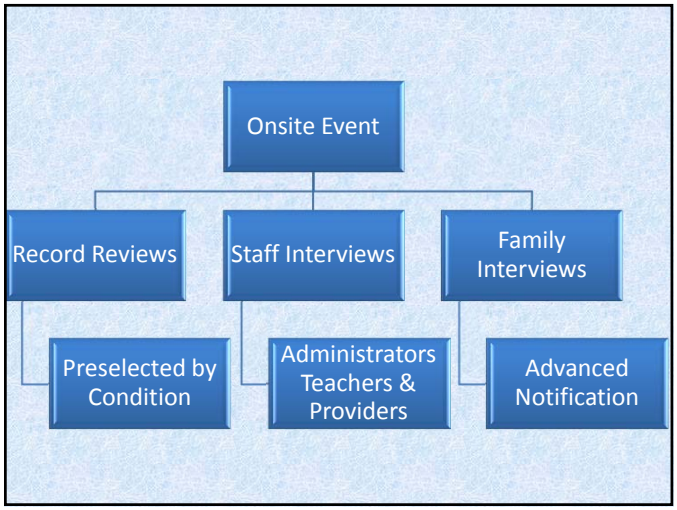


How are LEAs Selected?









Results Notification

- Sent thirty calendar days following the onsite event*
- Note any findings of noncompliance identified
- Include a detailed Monitoring Report (with student & LEA-level noncompliance)
- Delineate student & LEA-level corrective actions necessary to correct identified noncompliance

Onsite Monitoring Changes

- Pre-Site Meeting
  - Reviewing all materials submitted
  - Reviewing a smaller subset of IEPs
  - Reviewing dispute resolution & 616/618 data
- Conducting telephone interviews of parents prior to coming onsite
- Obtaining additional information from LEAs with RTFs
- Conducting onsite visits to Alternative Schools
- Possibly conducting follow-up focused monitoring

Onsite Monitoring, Continued

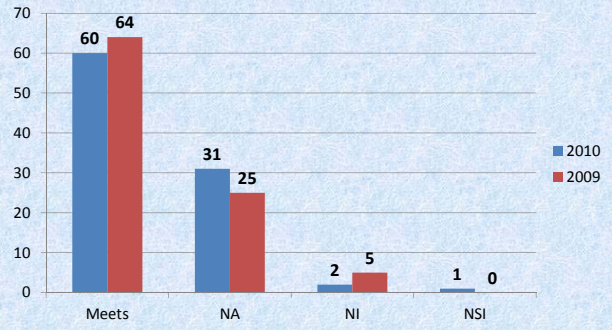
- Ensure that **all** materials requested are including in "Pre-Submission Documents"
- Ensure that student records are organized, complete, and up-to-date and **all** are available
- Ensure that adequate space is provided and that logistics have been arranged
- File Review Team – File Review lead as point-of-contact
- Interview Team – Two staff to interview

Ongoing Improvement Plan (OIP)

- Concrete plan addressing root causes of noncompliance
- LEAs have **ONE** OIP regardless of the findings of noncompliance or determination.
- Serves as the LEA's evaluation plan (each "goal" would reflect the area of noncompliance
- Some activities may overlap
- Document will be forthcoming

SC EARNS "MEETS REQUIREMENTS" FOR THE SECOND CONSECUTIVE YEAR!

Local IDEA Determinations



BREAK

Dennis Meyers, Office of Transportation

TRANSPORTATION

South Carolina Department of Education

Approval to Transport Special Needs Students R-55

School Year # _____

This is to request approval of contract routes for student(s) requiring special transportation. This approved contract will be reimbursed for a period beginning no earlier than 10 days before it was received by the County Supervisor of Transportation. State reimbursement will be based on the number of school days the students are transported to or from school by the provider of service. The contract is effective through the last day of this school year or the last day of service by the provider during the present school year, whichever comes first. The contract is between the provider of service and the school district listed below.

School District: _____

Mode of transportation: [check one, and provide associated information]

- ☐ Private Contractor Name and Address: _____
- ☐ District Bus # _____
- ☐ Other District Vehicle # _____

Any vehicle used under the terms of this contract must meet Federal Vehicle Safety Standards for school bus construction if the vehicle manufacturer's designed capacity is more than 10 passengers in addition to the driver. The contractor identified above is required to carry insurance in accordance with Section 59-67-710 Code of Laws of S.C.

List students being transported under the terms of the contract. [Attach additional pages, as needed, in order to list all students.]

#	Student Name	Address for pick-up / drop-off	School Attending	Mile*	Student rides to school	Student rides from school
1				☐	☐	☐
2				☐	☐	☐
3				☐	☐	☐
4				☐	☐	☐
5				☐	☐	☐
6				☐	☐	☐

* If any of the students listed are attending a class under a "Multi-District Agreement" (MDA), attach a copy of the Department of Education, Office of Programs for Exceptional Children's approved application for The Establishment of Multi-District Educational Programs, SDE 24-052-07 to this form.

Total number of students being transported under the terms of this contract: _____

Explain why a state bus cannot be used to serve the listed student(s): [Attach additional page(s) as needed.]

Reimbursable daily mileage: _____ miles (Round to nearest tenth) Maximum days to operate: _____ days (1st Semester (90 days)) + _____ days (2nd Semester (90 days)) + _____ days (School Year)

Calculations for maximum possible reimbursement provided under the terms of this contract:

(A) **Reimbursable daily mileage** _____ miles
Maximum reimbursable daily mileage for private and other (non-bus) district vehicles is 64 miles.

(B) **Days of operation** _____ days
Maximum days the contract is will run during the school year; days in any one semester cannot exceed 90, or the number of remaining school days in the semester, whichever is less.

(C) **Reimbursement rate** $ _____ /mile
($.42 for District Buses, $0.50 for private and other district vehicles.

(D) **Total maximum mileage reimbursement** $ _____
Reimbursable daily mileage (A) x Days of operation (B) x Reimbursement rate (C).

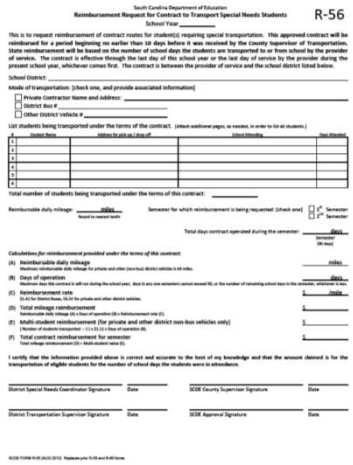
(E) **Multi-student reimbursement (for private and other district non-bus vehicles only)** $ _____
(Number of students transported - 1) x (1.5) x Days of operation (B).

(F) **Total maximum contract reimbursement** $ _____
Total maximum mileage reimbursement (D) + Multi-student reimbursement (E).

District Special Needs Coordinator Signature _____ Date _____ District Transportation Supervisor Signature _____ Date _____

SCDE County Supervisor Signature _____ Date _____ SCDE Approval Signature _____ Date _____

SCDE FORM R-55 (ALCS 2012) Replaces prior R-55 forms.



South Carolina Department of Education

Reimbursement Request for Contract to Transport Special Needs Students R-56

School Year _____

This is to request reimbursement of contract routes for student(s) requiring special transportation. This approved contract will be reimbursed for a period beginning no earlier than 10 days before it was received by the County Supervisor of Transportation. State reimbursement will be based on the number of school days the students are transported to or from school by the provider of service. The contract is effective through the last day of this school year or the last day of service by the provider during the present school year, whichever comes first. The contract is between the provider of service and the school district listed below.

School District _____

Mode of transportation: [check one, and provide associated information]

☐ Private Contractor Name and Address: _____

☐ District Bus # _____

☐ Other District Vehicle # _____

List students being transported under the terms of the contract. (Attach additional pages, as needed, in order to list all students.)

#	Student Name	Address for pick up / drop off	School Attending	Days Attended
1				
2				
3				
4				
5				
6				

Total number of students being transported under the terms of this contract: _____

Reimbursable daily mileage: _____ miles (Round to nearest tenth)

Semester for which reimbursement is being requested: (check one) ☐ 1st Semester ☐ 2nd Semester

Total days contract operated during the semester: _____ days (semester 90 days)

Calculations for reimbursement provided under the terms of this contract:

(A) **Reimbursable daily mileage** _____ miles

Maximum reimbursable daily mileage for private and other (non-bus) district vehicles is 44 miles.

(B) **Days of operation** _____ days

Maximum days this contract is still run during the school year; days in any one semester cannot exceed 90, or the number of remaining school days in the semester, whichever is less.

(C) **Reimbursement rate** $ _____ /mile

$1.42 for District Buses, $0.37 for private and other district vehicles.

(D) **Total mileage reimbursement** $ _____

Reimbursable daily mileage (A) x Days of operation (B) x Reimbursement rate (C).

(E) **Multi-student reimbursement (for private and other district non-bus vehicles only)** $ _____

(Number of students transported – 1) x (0.1) x Days of operation (B).

(F) **Total contract reimbursement for semester** $ _____

Total mileage reimbursement (D) + Multi-student value (E).

I certify that the information provided above is correct and accurate to the best of my knowledge and that the amount claimed is for the transportation of eligible students for the number of school days the students were in attendance.

District Special Needs Coordinator Signature _____ Date _____ SCDE County Supervisor Signature _____ Date _____

District Transportation Supervisor Signature _____ Date _____ SCDE Approval Signature _____ Date _____

SCDE FORM R-56 (JULY 2012) Replaces prior R-55 and R-60 forms.

Finance Update

Michael Thom, Team Lead, Fiscal Administration

In this session . . .

1. *Proviso 1.91 Update*
2. *LEA-MOE & Excess Cost*
3. *IDEA Application Process*
4. *Fiscal Monitoring*

47

Proviso 1.91 Contingency Reserve

- State Proviso 1.91 (SDE: EFA-IDEA Contingency Reserve) has been put into place to make up for the reduction of FY 13 Federal IDEA funds, however in most cases you will still notice a reduction in your FY 13 Federal IDEA grant award amount.
- Individual school district amounts, funds distribution process, revenue codes, and sub-fund codes for the State Proviso 1.91 IDEA Contingency Reserve will be delivered via email the first week of October 2012.

Revenue Code 3133
Subfund Code 930

Pike School District	
12 Fed Award	$3,247,401
13 Fed Award	$2,379,003
Difference	($868,398)
State Proviso Award	$713,854
	($154,544)

Method to the Madness???

- Excess Cost
- LEA Maintenance of Effort (MOE)
- To Supplement ***not*** Supplant

49

Supplement

- Special education funds must be used to supplement and increase the level of federal, state, and local funds expended for special education and related services provided to children with disabilities and in no case to supplant those federal, state, and local funds.

Supplant

sup plant (transitive verb)

1. oust somebody
2. replace

Excess Cost

- The LEA must maintain its local and state fiscal effort (spending) for the education of children with disabilities *before* federal funds are used.
- This prevents LEAs from using federal funds to pay for *all* costs of special education

Excess Cost Example

- Amounts provided to an LEA under Part B of the Act may be used only to pay the excess costs of providing special education and related services to children with disabilities.
- Excess costs are those cost for the education of an elementary school or secondary school student with a disability that are in excess of the average annual per student expenditure in an LEA during the preceding school year for an elementary or secondary school student.

53

Maintenance of Effort - MOE

- Spending the same (or greater) amount of money for special education from state and/or local funds as compared to the previous year

2 Tests
Eligibility
Compliance

4 Methods
Total State/Local
Total State/Local per capita
Total Local
Total Local per capita

Maintenance of Effort - Example

- Eligibility (test on 611 Fiscal Application)
  LEA expends $900,000 in FY 2012 and *budgets* $900,001 in FY 2013; therefore, the LEA meets the IDEA MOE eligibility requirement for an FY 2013 grant award
- Compliance (test after FY close in November)
  LEA *expends* $1,000,000 in FY 2011 and *expends* $1,100,000 in FY 2012; therefore, the LEA complied with the MOE requirement from FY 2011 to FY 2012

Exceptions to MOE

- Through normal attrition, qualified lower-salaried staff replace higher-salaried staff
- Decrease in enrollment of children with disabilities
- Termination of obligation to a particular child that is exceptionally costly
- Termination of costly expenditures

56

MOE Flexibility

- When IDEA funds increase, MOE Flexibility permits grantee to spend up to 50% of the increased funds "as local" for costs that would be permitted under ESEA

- Allows a one-time reduction of MOE
- Should be clearly documented

57

Guidance on Supplanting

- If the LEA maintains (or exceeds) its level of local, or state and local, expenditures for special education and related services from year to year, either in total or per capita, then the Part B funds are, in fact, supplementing those local, or state and local, expenditures and the LEA has met its MOE and supplement/not supplant requirements.

IDEA Application Process

Narrative Section
Budget Report
Fiscal Section
Assurances
Lobbying Statement

59

IDEA Application Process

- Who is involved in application process?
- We all are!!
- Special Education Director
- Finance Director
- District Staff (Teachers, HR)
- OEC Fiscal Support
- Department of Ed Finance Office

60

Important Notes

- ✓ Please be timely in your submission of application materials October 31, 2012.
- ✓ Special Ed Director ultimately responsible for application materials.
- ✓ Does it make sense and is it complete?
- ✓ Review LEA Checklist

61

Fiscal Monitoring

- The Individuals with Disabilities Education Act (PL 108-446) requires that the South Carolina Department of Education monitor local education agencies on a regular basis to ensure fiscal compliance with state and federal laws, rules, and regulations that govern the provision of special education and related services to appropriately identified children. The purpose of this monitoring is to focus federal, state, and local resources on improved results for children with disabilities and their families. The Office of Exceptional Children is responsible for conducting IDEA fiscal monitoring activities

62

IDEA Fiscal Compliance Review Process

12 Months

2013

Jan | Feb | March | April | May | June | July | Aug | Sep | Oct | Nov | Dec

TIER III
- IDEA LEA On-site Fiscal Monitoring (10 risk based)

TIER I
- IDEA LEA Report Review (All)

TIER II
- IDEA LEA Desk Audits (30 random)

TIER I
Review of Budget vs. Expenditure Reports for IDEA and IDEA Preschool. All LEAs are reviewed annually to ensure that LEAs are spending funds in agreement with their approved budgets.
Requests sent to LEAs August 15th
LEA Deadline for return September 30th

TIER II
An IDEA Desk Audit is completed by all LEAs, charter schools and state-operated programs every three years. The IDEA Desk Audit addresses Time and Effort, Equipment (purchase and inventory), Maintenance of Fiscal Effort and Proportionate Share.
Requests sent to LEAs September 30th
LEA Deadline for return December 31st

TIER III
Ten (10) IDEA Fiscal Monitoring On-site Visits completed annually. The following Risk-based criteria are used to determine on-site visit sites:
Findings from the IDEA Desk Audit
Annual LEA Single Audit Findings
LEA Special Education Administrator turn-over
SEA identified potential fiscal issues
Requests sent to LEAs January 1st
LEA/SEA completion of On-site Monitioring June 30th

Thank you for listening!

Michael Thom
(803) 734-8788
mthom@ed.sc.gov
Team Lead, Fiscal Administration
Office of Exceptional Children
Division of Accountability

Susan Beck, Project Director

SC GATEWAYS:
CRADLES TO CAREERS

LUNCH ON YOUR OWN

Special Olympics
South Carolina
Be a fan.

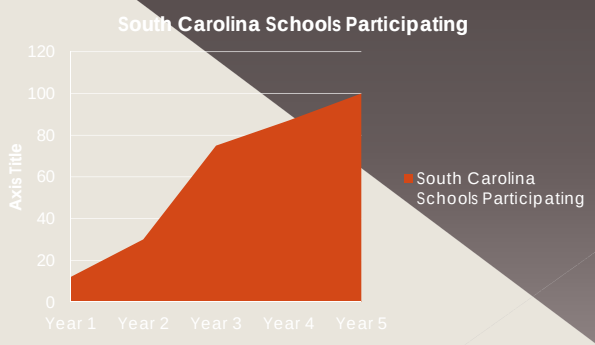
Project UNIFY.

Barbara Oswald

Create more **INCLUSIVE** school climates where all students are treated with **ACCEPTANCE** and **RESPECT**

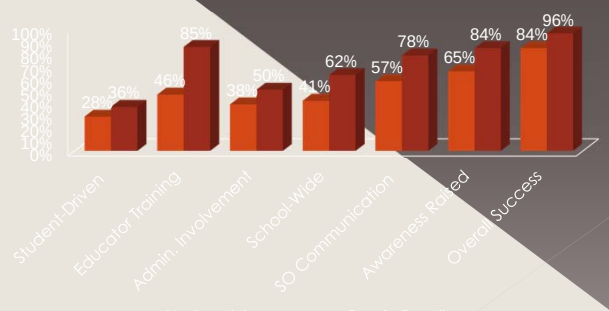
EMPOWER students to be **AGENTS OF CHANGE** in their school communities as they **ADVOCATE** for people with ID

History of SC Project UNIFY



2011-2012 **Evaluation Results** for Project UNIFY

**provided by the University of Massachusetts-Boston's Center for Social Development and Education*



Project UNIFY's *FOCUS*

INCLUSION
YOUTH ACTIVATION
SOCIAL JUSTICE
RESPECT
EMPOWER
EDUCATE
SPREAD THE WORD TO END THE WORD
ADVOCATE
YOUTH LEADERSHIP
UNIFIED SPORTS
POSITIVE CHANGE

Profile of a Project UNIFY School…

- Unified Sports
- Fan Clubs
- Advocacy Campaigns
- Youth Leadership

Special Olympics Project UNIFY:

Opportunities for students to gain *life skills* through inclusive experiences *on* and *off* the playing field

*Socialization
*Communication
*Interaction

W.U.S.O.C

Winthrop University Special Olympics Club

SO College:

- SO College connects college students and individuals with intellectual disabilities through sport to build friendships and help lead the social justice movement of Special Olympics.

SO College programs are made up of three core elements…

- **Sports**- Unified Sports teams are created composed of college students and Special Olympic athletes.
- **Leadership-** Creating a SO College student-led club provides an opportunity for students to engage in leadership roles by organizing events, applying for grants, holding regular meetings, and promoting acceptance for individuals with intellectual disabilities on Winthrop's Campus.
- **Involvement-** by hosting awareness campaigns, hosting on-campus events, and advertising, SO college programs are intended to maximize student involvement on campus.

WUSOC Events:

Unified Sports Day- Pairing Winthrop students with Rock Hill special needs athletes to compete in a variety of unified sports. (Soccer, Bocce, and Volleyball)

End the R Word Rally- Provide an opportunity for Winthrop students to pledge to eliminate the derogatory use of the word retard. A table will be set up with a signable banner and "End the R Word" promotional items (stickers, buttons, flyers) will be distributed among students to promote awareness for acceptance of individuals with intellectual disabilities.

Training Camps- Provide and opportunity for special needs athletes to receive training from Varsity Winthrop athletes in preparation for competition in the Special Olympics.

WUSOC Events Cont…

- **Exhibition unified basketball game-** After a day long training camp with the Winthrop Men's Basketball team, an exhibition match will be played between a unified basketball team and team composed of Coaches and well-known Winthrop professors. This will provide and opportunity for the athletes to showcase their abilities and play in front of a large crowd.

- **Unified Community Service-** Complete various unified community service around Rock Hill providing and opportunity for Winthrop students and several members of the surrounding special needs community to work together and give back to the community.

WUSOC Support Base:

- IFC Fraternities
- Special Education Majors
- Students who have previous involvement with Special Olympics.
- Supportive Winthrop office of Student Groups and Organizations.
- Helpful Faculty
- Well established Special Olympics Community.
- Ideal Facilities for having successful events.

2012 FALL SPECIAL EDUCATION ADMINISTRATORS' TRAINING

LEGAL UPDATES

Barbara A. Drayton, Deputy General Counsel
S.C. Department of Education
803-734-8783

Flexibility
Student/Teacher Ratios

1.38. (SDE: School Districts and Special Schools Flexibility) All school districts and special schools of this State may suspend professional staffing ratios and expenditure regulations and guidelines at the sub-function and service area level, except for four-year old programs and programs serving students with exceptional needs.

S. C. Code Ann. § 59 40 50

S. C. Charter School Act - (2012 Revision)

(b) A charter school student is eligible to compete for, and if selected, participate in any extracurricular activities not offered by the student's charter school which are offered at the resident public school he would otherwise attend. A charter school student is eligible to compete for, and if selected, participate in an activity governed by the South Carolina High School League offered at the resident public school he would otherwise attend if the league-governed activity is not offered at the student's charter school.

(c) A charter school student is eligible for extracurricular activities at the student's resident public school consistent with eligibility standards as applied to full time students of the resident public school.

(d) A school district or resident public school may not impose additional requirements on a charter school student to participate in extracurricular activities that are not imposed on full time students of the resident public school.

(e) Charter school students shall pay the same fees as other students to participate in extracurricular activities.

S. C. Code Ann. § 59-63-100

Equal Access To Interscholastic Activities Act (Enacted in 2012)

Purpose:

To permit home-school students and Governor's School students to participate in interscholastic activities of the school district in which the students reside subject to certain conditions, and to provide additional requirements for charter school students to participate in interscholastic activities.

(A)(4) 'Interscholastic activities' includes, but is not limited to, athletics, music, speech, and other extracurricular activities.

September 5, 2012, Attorney General's Opinion written to Superintendent Zais:

requirements. It is unclear as to what "speech" refers to. Speech therapy services are generally offered through the application of the Individuals with Disabilities Education Act and may already be available to these students without the application of this new law. However, in using the term "Speech" the General Assembly may have been referring to Drama Clubs, Debate Teams, and other types of theatrical productions. The catch-all language "other extracurricular" activities seems to be intended to be read broadly.

How Do These Laws Apply to Students with Disabilities?

The State must ensure the following:

(a) Each public agency must take steps, including the provision of supplementary aids and services determined appropriate and necessary by the child's IEP Team, to provide nonacademic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

(b) Nonacademic and extracurricular services and activities may include counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, referrals to agencies that provide assistance to individuals with disabilities, and employment of students, including both employment by the public agency and assistance in making outside employment available.

34 C.F.R. § 300.107

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in Sec. 300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

34 C.F.R § 300.117

Section 504 of the Rehabilitation Act of 1973 (Section 504) prohibits a recipient, in providing any aid, benefit or service, from directly or through contractual, licensing or other arrangements, denying a person with disabilities the opportunity to participate in or benefit from the aid, benefit or service on the basis of disability. 34 C.F.R. § 104.4 (b)(1)(i).

More specifically, the Section 504 regulations require school districts to provide nonacademic and extracurricular services and activities in "such a manner as is necessary to afford students with a disability an equal opportunity for participation in such services and activities." 34 C.F R § 104.37 (a)(1).

Academy of Waterford (MI)

112 LRP 15747 (OCR 2011)

The staff at Academy of Waterford, a public charter school in Michigan, violated Section 504 when it told the parent of 10 year-year-old with diabetes that he must be accompanied by family members if he wished to participate in an afterschool softball game. The charter school staff were concerned that there was not staff available to supervise the student's administration of insulin.

- **Additionally, the charter school participated in "Camp Exposure," an out-of-town educational field trip. The "Camp Exposure" program specifically barred students with diabetes from participating in the camp unless the students could take care of their own injections without supervision.**
- **The Office for Civil Rights (OCR) investigated the parent's complaint and determined the charter school had denied the student the equal opportunity to participate in afterschool and extracurricular activities that it offered students without disabilities.**

- **Additionally, the public charter school violated 504 by participating in Camp Exposure, a program which denies students with certain disabilities the opportunity to participate in the camp's program.**
- **Since the camp categorically excluded students with disabilities requiring medical services, the Academy is violating Section 504 by having a contractual or other arrangement with a company that discriminates against students with disabilities.**

What Is Your School District's Plan?

- What does your school district need to consider to be proactive?
- Are there any changes that your school district needs to make (not just relative to charter school and home-school students)?

Who Is Considered To Be A Parent?

34 C.F.R. § 300.30

Parent includes a biological or adoptive parent; a guardian; a foster parent; an individual acting as a parent in the absence of a biological or adoptive parent or a guardian, who has legal responsibility for the child's welfare (including a grandparent, stepparent, or other relative); or a surrogate parent.

Surrogate Parents

- Surrogate parents must be appointed for children with disabilities or children going through the evaluation process when the children are wards of the state (in the custody of the state).
- DSS caseworkers or other service providers cannot sign IEPs as the parent, despite orders from a family court granting the agency educational rights. Such persons may, however, participate as members of the IEP team.

Who Appoints The Surrogate Parent?

- Is it the group home, the state agency, or the school district's responsibility?

Who Can Serve as a Surrogate Parent?

- Can a group home employee or a RTF employee serve as a surrogate parent.

Change in Location

- A transfer of a student from one school to another school, which has a comparable educational program, is generally considered a change in location only.
- Simple changes in the location of a building or facility are not generally viewed to be a change in placement where there are no significant changes in the educational program.
  - Letter to Flores (OSEP 1994)

- In rare circumstances, a particular educational institution, a location, or a student-teacher relationship is so intrinsically related to an individualized education program (IEP) that a modification in one of these areas constitutes a change in placement.
- Always consider such relationships on an individualized, one-on-one basis.

Unilateral Changes in Placement

If the proposed change substantially or materially affects the composition of the educational program and services provided the child, then a change in placement occurs triggering the notice requirement.

- Letter to Flores (OSEP 1980)
- Letter to Fisher (OSEP 1994)

Factors to Consider in Determining if a Change in Placement Exists

- Whether the educational program set out in the IEP was revised;
- Whether the child will be able to be educated with nondisabled children to the same extent;

- Whether the child will have the same opportunities to participate in nonacademic and extracurricular services; and
- Whether the new placement option is the same option on the continuum of alternative placements.

Change in Service Delivery Model

The Education Department has advised that moving a child from a self-contained classroom to a resource room would be a change of placement, as it would change the child's level of interaction with her nondisabled peers. Generally, if a child is moved from a self-contained classroom to a resource room, it is likely that the current IEP cannot be implemented in the resource room, because the educational program in the resource room is likely to be substantially and materially different than the educational program in the self-contained classroom or the educational program in the resource room would change the level of interaction with nondisabled peers. 71 Fed. Reg. 46,644 (2006).

Examples of Changes in Placement

James is moved from an inclusion high school setting where he rotates between general education classes and receives instruction by appropriately certified and highly qualified teachers in the core academic subjects (ELA, math, science, and social studies) alongside his nondisabled peers, participates in related arts classes, and eats lunch in the cafeteria with his peers.

- James is placed in a setting in a separate wing of the building with other students, with and without disabilities, who the principal deems are at-risk due to continued disciplinary referrals.
- The students do not change classes. The teachers rotate into the program, with the exception of the special education teacher, who pulls James and the other two students with disabilities out of this new class to provide direct special education instruction.

- James and his classmates eat lunch in the new class, rather than in the lunchroom; do not participate in any related arts classes; and are not allowed to mingle with the other students during recess. James and his classmates are not allowed to participate in field trips while in the new setting.
- The teachers are not all properly certified in their content areas.
- James' parents were told that he cannot return to his previous schedule until he earns enough points through the system designed by the principal.

In Fairborn (OH) City Schools,

54 IDELR 174 (OCR 2009)

A kindergartener with Down syndrome and behavioral issues was denied an opportunity to participate in extracurricular and nonacademic activities for a majority of the school year. The district denied the student participation in music, physical education, lunch, recess, and numerous field trips. The OCR decided that Section 504 requires school districts to ensure that students with disabilities participate with nondisabled students in nonacademic and extracurricular services and activities, including meals, recess periods, athletics, to the maximum extent appropriate to the needs of the student.

In-school Suspension

The U.S. Department of Education opined that a day of ISS placement is not considered the same as a day of removal addressed by 34 CFR 300.530, assuming that:

1. The student is afforded the opportunity to continue to appropriately progress in the general curriculum.
2. The district continues to provide the services specified in the student's IEP.
3. The student continues to participate with nondisabled students to the same extent as he does in his current placement.

71 Fed. Reg. 46,715 (2006).

For purposes of counting the number of days of a student's removal from school, only "school" days of the calendar are counted. Under the IDEA, a school day is defined as "any day, including a partial day, that children are in attendance at school for instructional purposes" and the term "has the same meaning for all children in school, including children with and without disabilities."

34 C.F.R. § 300.11(c)(1) through 34 C.F.R. § 300.11(c)(2).

What if We Don't Call it a Suspension? What if We Use a Catchy Acronym or Phrase?

SAFE – Schools Are For Education!

It does not matter what you call it. If it is a disciplinary removal or other type removal that results in a change in placement, the school district must comply with federal requirements!!!

Least Restrictive Environment (LRE)

Reassignment of a student with autism from a regular school bus to a special education bus that altered the student's opportunities for transportation in the LRE was a change in placement requiring notice.

What about LRE when the student is removed from the bus and the school district wants to contract with the parent to provide the student's transportation?

Letter to Sarzynski, 112 LRP 35343
(OSEP 06/21/12)
(Bus Suspensions)

If the school district does not offer the student another mode of transportation and the student is not be able to attend school without the provision of transportation, then this is viewed as the same as an out-of-school suspension for the student and all of the necessary procedures in the IDEA relative to disciplining students with disabilities come into play.

If the school district fails to offer an alternate mode of transportation and the parent voluntarily provide transportation so that the student does not miss school as a result of the bus suspension, this will not get the school district off the hook.

For example, if Student A, who has transportation in his IEP, is suspended from the regular school bus for fifteen school days and the school district does not provide transportation by another method, such as by having the special education or transportation director pick the student up in a private auto; using a taxi or other common carrier; or using a smaller bus to transport the student, and Student A's mother provides the transportation without a contract with the district to do so with reimbursement, then the disciplinary provisions that include conducting a manifestation determination review must be followed.

Prior Written Notice (PWN)

Under 34 C.F.R. § 300.503(b)(5), PWN must include sources for parents to contact to obtain assistance in understanding the provision in 34 C.F.R. § 300.503.

What Resources are Commonly Provided?

(1)

(2) Barbara Drayton

(3) A telephone number and no name or information that identifies whose telephone number this is.

(4) Someone's name without a telephone number or information that identifies who this person is.

ProParents of South Carolina
652 Bush River Road, Suite 218
Columbia, South Carolina 29210
Telephone Number: 803-772-5688
Toll Free Number: 800-7594776
http://www.proparents.org

Protection and Advocacy for People with Disabilities, Inc.
3710 Landmark Drive, Suite 208
Columbia, South Carolina 29204
Telephone Number: 803-782-0639
Toll Free Number: 1-866-275-7283 (voice)
Toll Free Number: 1-866-232-4525 (TTY)

South Carolina Appleseed Legal Justice Center
Post Office Box 7187
Columbia, South Carolina 29201
Telephone Number: 803-779-1113

Disability Action Center, Incorporated
Midlands Office
136 Stonemark Lane Suite 100
Columbia, South Carolina 29210
Telephone Number: 803-779-0949 (TTY)
Toll Free: 1-800-681-6805

Disability Action Center, Incorporated
Upstate Office
330 Pelham Road Suite 102-B
Greenville, South Carolina 29615
Telephone Number: 864-235-8798 (TTY)
Toll Free: 1-800-681-7715

South Carolina Legal Services
Columbia Office
Serving: Lee, Lexington, Kershaw, Richland, and Sumter Counties
2109 Bull Street
PO Box 1445
Columbia, South Carolina 29201
Phone: 803-799-9668
Fax: 803-799-1781
Toll Free: 1-888-346-5592 (Intake)

South Carolina Legal Services
Charleston Office
Serving: Beaufort, Berkeley, Charleston, Colleton, Dorchester, Hampton, and Jasper Counties
2803 Carner Avenue
Charleston, South Carolina 29405
Telephone Number: 843-720-7044
Fax Number: 843-760-1090
Toll Free Number: 1-888-346-5592 (Intake)

South Carolina Legal Services
Conway Office
Serving: Georgetown, Horry, Marion, and Williamsburg Counties
1201 B Creel Street, Wing A-1
PO Box 1231
Conway, South Carolina 29526
Telephone Number: 1-866-597-0100
Toll Free: 1-888-346-5592 (Intake)

South Carolina Legal Services
Florence Office
Serving: Chesterfield, Clarendon, Darlington, Dillon, Florence, and Marlboro Counties
320 S. Coit Street
Florence, South Carolina 29501
Telephone Number 843-413-9500
Fax: 843-413-1013
Toll Free: 1-877-238-3418
Toll Free: (Intake) 1-888-346-5592

South Carolina Legal Services
Greenville Office
Serving: Anderson, Greenville, Oconee, and Pickens Counties
701 S. Main Street
Greenville, South Carolina 29601
Telephone Number: 864-679-3232
Fax: 864-679-3260
Toll Free: 1-800-763-4825
Toll Free: 1-888-346-5592 (Intake)

South Carolina Legal Services
Orangeburg Office
Serving: Aiken, Allendale, Bamberg, Barnwell, Calhoun, and Orangeburg Counties
126 Associate Parkway
Orangeburg, South Carolina 29118
Telephone Number: 803-533-0116
Fax: 803-534-5556
Toll Free: 1-800-522-9354
Toll Free: 1-888-346-5592 (Intake)

South Carolina Legal Services
Rock Hill Office
Serving: Chester, Fairfield, Lancaster, and York Counties
214 Johnston Street
Rock Hill, South Carolina 29730
Telephone Number: 803-327-9001
Fax: 803-327-7105
Toll Free: 1-800-922-3853
Toll Free: 1-888-346-5592 (Intake)

South Carolina Legal Services
Spartanburg Office
Serving: Cherokee, Spartanburg, and Union Counties
148 E. Main Street
Spartanburg, South Carolina 29306
Telephone Number: 864-582-0369
Fax: 864-582-0302
Toll Free: 1-800-922-8176
Toll Free: 1-888-346-5592 (Intake)

BREAK

Barbara Drayton and Lana Ott, Office of General Counsel

DISPUTE RESOLUTION

2012 FALL SPECIAL EDUCATION ADMINISTRATORS' CONFERENCE

DUE PROCESS HEARING AND MEDIATION REQUESTS 2011– 12

Barbara A. Drayton, Deputy General Counsel
S.C. Department of Education
Office of General Counsel

bdrayton@ed.sc.gov.

DUE PROCESS HEARING REQUESTS 2011 - 12

7 DUE PROCESS HEARING REQUESTS

- 6 RESOLUTION MEETINGS
- 3 REQUESTS RESOLVED THROUGH RESOLUTION AGREEMENTS
- 4 WITHDRAWN
- 0 DUE PROCESS HEARINGS

DUE PROCESS HEARINGS

1 GEORGETOWN COUNTY SCHOOL DISTRICT

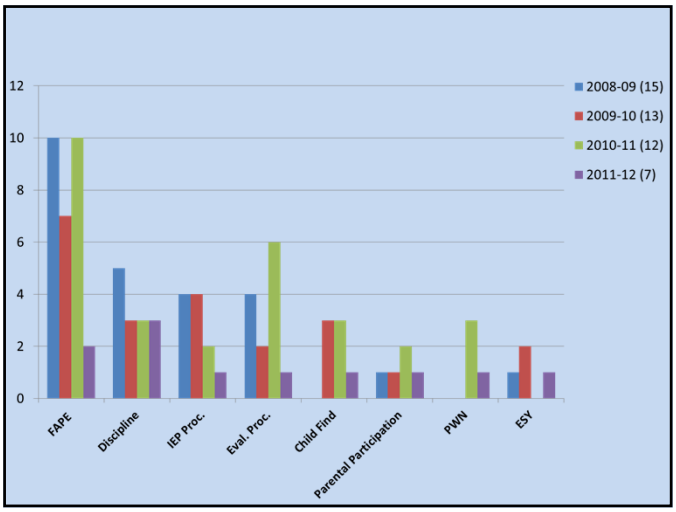
2 HORRY COUNTY SCHOOL DISTRICT

1 KERSHAW COUNTY SCHOOL DISTRICT

1 RICHLAND COUNTY SCHOOL DISTRICT ONE

1 SPARTANBURG COUNTY SCHOOL DISTRICT SEVEN

1 WILLIAMSBURG COUNTY SCHOOL DISTRICT



MEDIATION REQUESTS 2011-12

5 REQUESTS REPORTED

Aiken
Cherokee
Darlington
Palmetto Unified
Richland One

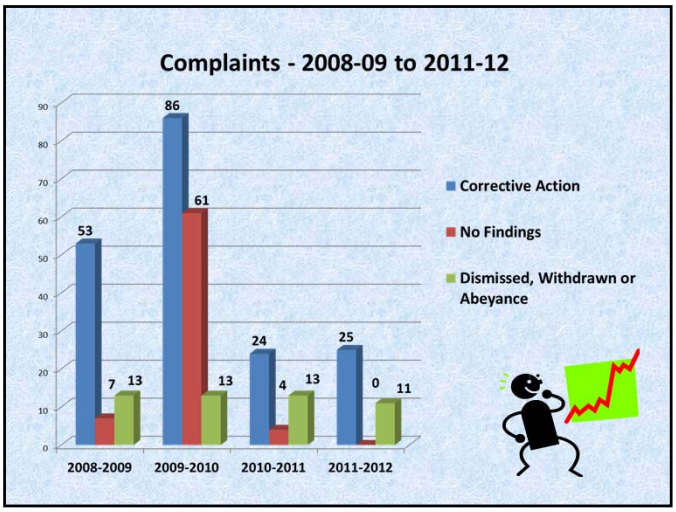
2 REQUESTS GRANTED - EACH RESULTED IN A SIGNED AGREEMENT

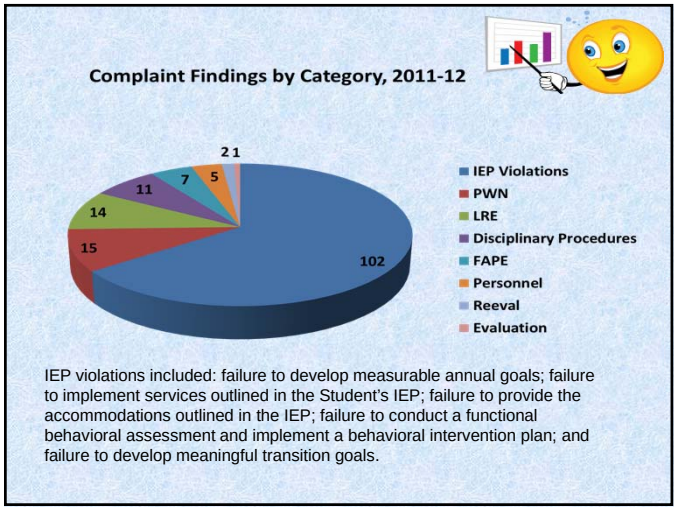
Cherokee
Darlington

Analysis of Findings

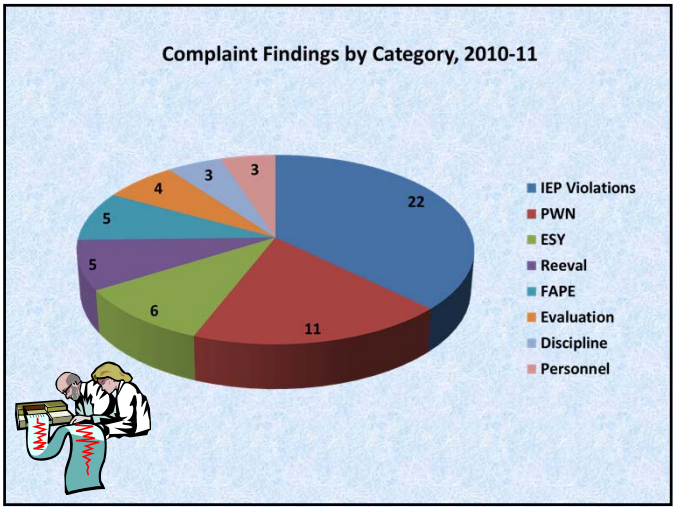
2011-2012 Complaints
in
South Carolina

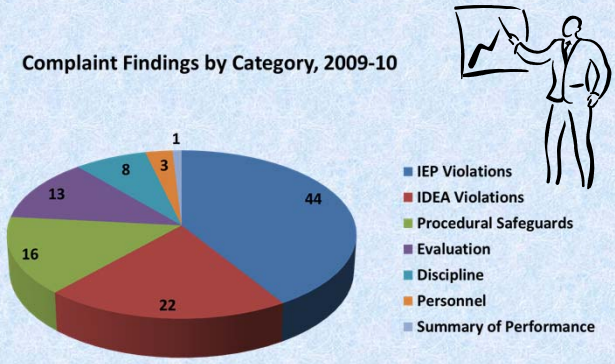
Lana Ott, Complaint Investigator





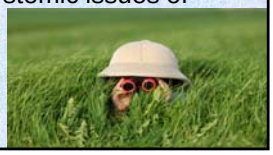
IEP violations included: failure to develop measurable annual goals; failure to implement services outlined in the Student's IEP; failure to provide the accommodations outlined in the IEP; failure to conduct a functional behavioral assessment and implement a behavioral intervention plan; and failure to develop meaningful transition goals.





Observations

- Violations of IEPs continue to be the single greatest finding for the last five years.
- Prior written notice, discipline, appropriately certified and highly qualified personnel, evaluation, and reevaluation have remained thematic over the last five years.
- Class action complaints are being received and doors are open to address systemic issues of noncompliance.



…and see you tomorrow!

SOUTH CAROLINA
STATE DEPARTMENT
OF EDUCATION

Fall 2012 Special Education Administrators Conference

September 27 – 28, 2012
Brookland Conference Center

Office of Exceptional Children

Friday, September 28, 2012

Office of Exceptional Children

The morning breakfasts are arranged by SC CASE

We'd like to thank our administrative staff in planning of Fall 2012 Administrators Conference

Marlene Sellars, B'Evelyn Jackson, Trishun Milhouse, Becky Rush, Brenda Turner, and Julie Whitman

A message from…

The SC Advisory Council on…

the Education of Students with Disabilities

Suzanne Swaffield and Anne Mruz

OFFICE OF ASSESSMENT

Residential Treatment Facilities (RTFs)

IDEA
and
Proviso 1.61

Bev Collom, Aveene Coleman, Barbara Drayton and Michael Thom

142

Residential Treatment Facilities and Students with Disabilities

"What's it all about, **IDEA** and **Proviso 1.61**?"

143

Purpose and Background

- Purpose: To share information about the responsibilities for providing educational services to students placed in Residential Treatment Facilities.

144

Residential Treatment Facility

A residential treatment facility (RTF) is a facility operated for the assessment, diagnosis, treatment, and care of two or more children or adolescents in need of mental health treatment which provides: a) an education program with a minimum program defined by the SCDE; b) recreational facilities with an organized youth development program; and c) residential treatment for a child or adolescent in need of mental health treatment.

145

What Individuals with Disabilities Education Act (IDEA) Has to Say

Congress finds the following:

"(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to participate in or contribute to society. Improving educational results for children with disabilities is an essential element of our national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities.

118 STAT. 2648 PUBLIC LAW 108–446—DEC. 3, 2004

146

Access to Free Appropriate Public Education (FAPE)

- It is the state education agency (SEA) and the local education agency's (LEA) responsibility to find the means of ensuring children with disabilities and the families of such children have access to a free appropriate public education and in improving educational outcomes for children with disabilities.

147

Least Restrictive Environment

(A) IN GENERAL.—To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

148

Highly Qualified Teachers

When used with respect to any public elementary school or secondary school special education teacher teaching in a State, highly qualified requires that:

- The teacher has obtained full State certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination, and holds a license to teach in the State as a special education teacher, except that when used with respect to any teacher teaching in a public charter school, highly

149

Highly Qualified Teacher

- qualified means that the teacher meets the certification or licensing requirements, if any, set forth in the State's public charter school law;
- The teacher has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
- The teacher holds at least a bachelor's degree.

150

When and What of Monitoring

- When feasible, visits to residential treatment facilities' education sites will occur at the same time a compliance monitoring onsite visit from the OEC is scheduled.
- When possible, this visit will coincide with the visit from Teresa Dillard in the Office of Federal and State Accountability.
- The facility district will be notified of a scheduled compliance monitoring visit with a pre-submission documents request.
- A review of randomly selected folders of students with disabilities enrolled in RTFs located in districts receiving compliance visits in school year 2012-2013 will occur prior and during the compliance monitoring onsite district visit.

151

Additional Activities

- Notification of actual site visit provided in advance by Office of Exceptional Children and/or the Office of Federal and State Accountability.
- Focus visits by the OEC may occur when need arises.
- May observe students in regular education classrooms and special education settings.
- May request to observe specific student(s) instructional settings.

152

Additional Activities

- Individual Education Plans (IEPs) of student(s) may be requested during visit.
- Copies of Teacher Certificates will be reviewed.
- Possible interview(s) of general and special education teachers that service students with disabilities.
- Class and school site schedules may be reviewed.

153

Proviso 1.61

Responsibility for Providing Educational Services

Shared by RTFs, Facility and Residential School District

154

Facility School District

Facility school district is the school district in which the RTF is located.

The facility school district is responsible for the following:

- providing appropriate educational programs for students with and without disabilities placed in RTF(s),
- enrolling students placed in RTFs,
- approving a student into a homebound medical instructional program, if appropriate, and

155

Responsibilities of a Facility School continued

- receiving and expending funds, unless the resident school district decides to carry out the educational services to student(s).

156

Resident School District

The **resident school district** is the school district where the child last resided with his or her biological or adoptive parents, legal guardian, or an individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) who was legally responsible for the child's welfare at the time he or she was referred to or placed in a residential treatment facility.

The **resident school district is** responsible for the following**:**

- getting records to facility District and

157

Resident School District (continued)

- paying for education of students with or without disabilities living within the district but housed in a residential treatment facility in or outside the resident district.

158

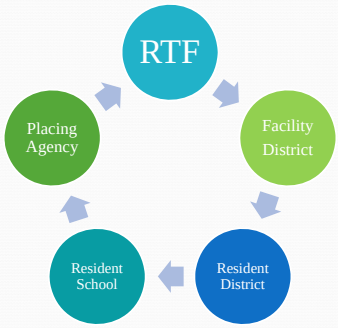
Responsibilities of RTFs

The RTF is responsible for the following:

- notifying the facility school district as soon as practical, and before admission to the RTF, if practical, of a student's admission to the RTF.
- securing and exchanging information including documents and records necessary to provide appropriate educational services and/or related services as necessary to assist the facility school district in determining the resident school district.
- providing, in some cases, education facility and education services to students.

159

Communication, Communication, Communication



160

Ongoing Ways to Communicate

- Entry and Exit of Students at RTF (Data personnel at facility district)
- Contact persons between Facility District and RTF(s)
- Memorandum of Agreements between Facility District and RTFs
- Memorandum of Understanding or Agreements with out of state resident districts
- System in place to obtain student records including IEPs (contact between resident and facility district for annual review, participate via teleconference or in person

161

Ways to Communicate continued

- Placing agency and RTF use form to indicate student's last place of residence and last school attended.
- Placing agency notifies resident school of student placement in RTF.

162

Education Program Options

The responsibility for providing appropriate educational programs and services for these students, both with and without disabilities, who are referred or placed by the State is vested in the facility school district. **Proviso 1.61**

Program options are as follows:

- Student(s) attend whole or partial program in Facility District (AYP Directly Reported at School Level).

163

Program Options

- Student's educational program is provided entirely at RTF (AYP Performance on separate line in district data but not school)
- When it is determined to be clinically appropriate by RTF staff, parent and facility district, students may participate either in:
  - *a) facility district's virtual program*
  - *b) SC Virtual program through SCDE*
  - *c) Virtual Charter School authorized by SC Public Charter School District* **Proviso 1.61**

164

Program Options

- Full or partial services provided by personnel directly to student at the RTF site.
  - a.) Facility District provides personnel and services.
  - b.) Facility District contracts with RTF and RTF agrees to provide educational services.
- Child Placed in RTF by Parent or Guardian
  - a.) Facility District provides educational program
  - b.) Negotiation procedures with Resident District through medical homebound

165

Program Options

- Parent or legal guardian seeks to maintain enrollment in the resident district and resident district approves.
  - a.) Documentation of agreement and services provided
- Students with Disabilities (SWD)
  - a.) Provision of special education and related services depending upon education program option chosen and Least Restrictive Environment
  - b.) SWD that do not participate in general education program
    - -Document location/duration/type of Special Education and related services provided

166

Contact Information

Bev Collom
Education Associate
Office of Exceptional Children
South Carolina Department of Education
1429 Senate Street, room 801-C
Columbia, SC 29201
Phone: 803-734-7939
Fax: 803-734-5021
bcollom@ed.sc.gov

167

Proviso 1.61

Accountability Purposes and Drop-Out Data

Aveene Coleman
Office of Student Intervention Services

168

Proviso 1.61

Accountability Purposes

- Students residing in RTF's shall be attributed to a specific school only if the child physically attends the school.
- RTFs shall notify the facility school district as soon as practical, and before admission to the RTF, if practical, of a student's admission to the RTF.

169

Proviso 1.61

- The Department of Education, in collaboration with state placing agencies, RTF's, facility schools districts, and resident school district <u>shall implement a system to follow the release of students from a RTF and re-enrollment in public, private, or special schools to ensure these students, when appropriate, are not recorded as dropouts.</u>

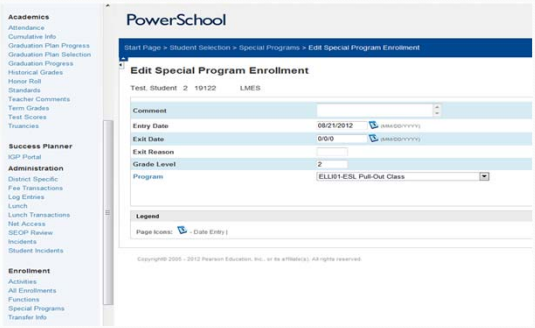
170

Proviso 1.61

RTFs, the facility school districts and the Department of Education <u>shall use the best efforts to secure and /or exchange information, including documents and records necessary to provide appropriate educational services and/or related services as necessary</u> to assist the facility school district in determining the resident school district.

171

Coding RTF Placement in PowerSchool



172

Coding RTF Placement in PowerSchool

- School District must populate the entry and exit date for students placed in a RTF on the special program.
- District must indicate in PowerSchool who is providing the educational services for students served in the RTF.

Program Code	Program Code Description
RTF-1FS	Served Full-time at District School
RTF-2PS	Served Part-time at District School
RTF-3FD	FT at Facility-Dist Provides Ed Svc
RTF-4FF	FT at Facility-Facility Provides All Ed Svc

173

RTF -Dropout Data Collection

Out of State Placement

- Should not be coded as dropout because the home state is responsible for the educational services.

Resident School District

- If the student already resides in your school district, you must provide the proper documentation and not report them as a dropout. Without documentation, the student should be counted as a dropout for the resident school district.

174

RTF-Dropout Data Collection

Facility School District

If the student is not a resident of your school district, however he/she is a resident of South Carolina, and attends school in South Carolina the following efforts must be made:

- Placing Agencies, RTF's, Facility School district and Resident School must exchange records to show that the student is attending another school.
- Students without the proper documentation will be counted as dropouts.

175

Contact Information

Aveene R. Coleman
Education Associate
Office of Student Intervention Services
South Carolina Department of Education
1429 Senate Street, Room 803-A
Columbia, South Carolina 29201
Phone: 803-734-3057
Fax: 803-734-3043
acoleman@ed.sc.gov

176

Proviso 1.61

What it says about funding of educational services?

Michael Thom
Office of Exceptional Children

177

The Legal Language

- The facility school districts are entitled to receive the base student cost multiplied by the Education Finance Act (EFA) pupil weighting for Homebound pupils of 2.10, as set forth in Section 59-20-40 of the 1976 Code and any eligible categorical and federal funds.
- A facility school district is entitled to reimbursement from a resident school district for the difference between (1) the reasonable costs expended for the educational services provided directly by the facility school district or the amount paid to the RTF and (2) the aggregate amount of federal and state funding received by the facility school district for that student.

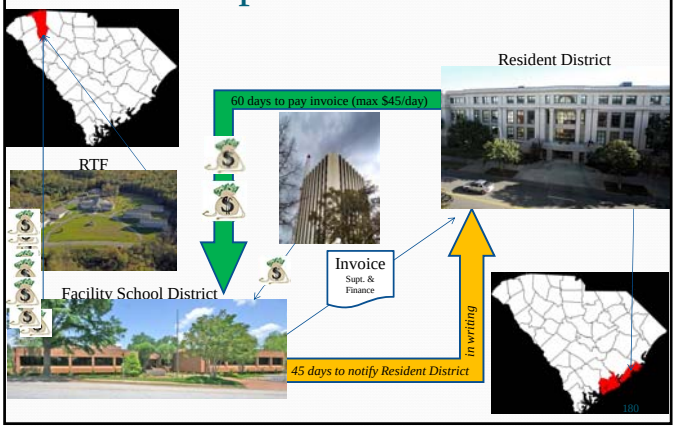
178

The Legal Language

- However, the reimbursement rate may not exceed $45 per student per day.
- Should the facility school district be unable to reach agreement with the resident school district regarding reasonable costs differences, the facility school district shall notify the Department of Education's Office of General Counsel.

179

What is the process?



180

Contact Information

Michael Thom
Education Associate, Finance
Office of Exceptional Children,
South Carolina Department of Education
1429 Senate Street, room 801-H
Columbia, SC 29201
Phone: 803-734-8788
Fax 803-734-5021
Mthom@ed.sc.gov

181

Proviso 1.61

What to do when the funding is in question??

Barbara Drayton
Office of General Counsel

182

Funding Disputes

- "Should the facility school district be unable to reach agreement with the resident school district regarding reasonable cost differences, the facility school district shall notify the Department of Education's Office of General Counsel."
- No required form to request assistance.
- Include an explanation of steps taken thus far to resolve the dispute.

183

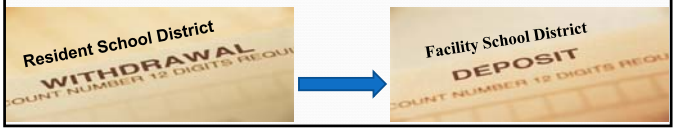
184

Dispute Resolution

- "The Department of Education shall facilitate a resolution of the dispute between the facility school district and the resident school district within forty-five days of the notice of dispute. If the issue of reasonable cost differences should remain unresolved, a facility school district shall have the right to file a complaint in a Circuit Court."

185

"Should a resident school district fail to distribute the entitled funding to the facility school district by the 135 day count, the Department of Education is authorized to withhold the equivalent amount of EFA funds and transfer those funds to the facility school district."



Answers to Frequently Asked Questions

- **Yes**, the resident school district has a right to request information and documentation of the services provided to the student while in the RTF before paying a bill.
- **Yes**, the resident school district has a right to request information and documentation of the certification of the teachers who provided the student's instruction while at the RTF before paying a bill.
- Put any disputes in writing.

187

Contact Information

Barbara Drayton
Attorney
Office of General Counsel
South Carolina Department of Education
1429 Senate Street, room 1015-B
Columbia, SC 29201
Phone: 803-734-3393
Fax:803-734-4384
bdrayton@ed.sc.gov

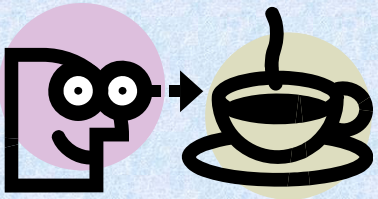
188

In Summary

- Know the district's responsibility in providing education to SWD placed in RTFs.
- Communicate in a timely manner with RTFs, resident districts and facility districts.
- Be aware of and act on the requirements of Proviso 1.61 and IDEA.

189

Break-Time!!



190

Special Education Updates

Michelle Bishop & John Payne

Process Guide Changes

- Page 9 Consent to invite an outside agency must be given whenever the LEA is holding a meeting requiring the attendance of an outside agency.
- Page 97 Guidelines on SCDE virtual school program added
- Pages 179-182 Added additional examples to PWN

PRIOR WRITTEN NOTICE (PWN)

When is PWN required?

- Prior written notice must be given to a parent:
  - [A] Reasonable time before the public agency—
    - (i) Proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
    - (ii) Refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 C.F.R. § 300.503(a).

What does "identification" mean?

"Identification" refers to the identification of a child as a child with a disability, including the specific disability category or categories.

How does prior written notice work within the identification context?

U.S. Dept. of Educ. Discussion of the Federal Regulations, 71 Fed. Reg. 46661 (August 14, 2006).

"The eligibility group should work toward consensus, but under § 300.306, the public agency has the ultimate responsibility to determine whether the child is a child with a disability. Parents and school personnel are encouraged to work together in making the eligibility determination. If the parent disagrees with the public agency's determination, under § 300.503, the public agency must provide the parent with prior written notice and the parent's right to seek resolution of any disagreement through an impartial due process hearing, consistent with the requirements in § 300.503 and section 615(b)(3) of the Act."

- Letter to Atkins-Lieberman, 56 IDELR 141 (OSEP 2010). "In the case of a proposal to identify a child as having a disability under 34 CFR § 300.8 (eligibility for special education and related services [ ]), OSEP would expect that the prior written notice, in order to fully explain the actions being proposed would include the proposed category of disability, if applicable (some States have no categorical identification), along with the proposal to initiate services or placement in special education. Additionally, if the parent requests a change in identification (category of disability or from a child with a disability to a child without a disability) and the public agency refuses the parent's request."

What does "evaluation" mean?

"Evaluation means procedures used in accordance with §§ 300.304 through 300.311 to determine whether a child has a disability and the nature and extent of the special education and related services that the child needs." 34 C.F.R. § 300.15.

How does prior written notice work within the evaluation context?

- School districts are not obligated to grant every parental request for an evaluation.
- However, a refusal to evaluate triggers prior written notice.

OSERS Questions and Answers on Response to Intervention and Early Intervening Services, 47 IDELR 196 (January 1, 2007). "If an LEA declines the parent's request for an evaluation, the LEA must issue a prior written notice as required under 34 CFR § 300.503(a) (2) which states, written notice that meets the requirements of paragraph (b) of this section must be given to the parents of a child with a disability a reasonable time before the public agency refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. The parent can challenge this decision by requesting a due process hearing to resolve the dispute regarding the child's need for an evaluation."

What does "placement" mean?

"Placement" refers to a particular level on the continuum of alternative placements such as instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions.

Manuel P. v. Anchorage Sch. Dist., 265 P.3d 308; 58 IDELR 17 (Alaska 2011).

In this case, the school district failed to provide prior written notice before implementing a proposed change in placement. Specifically, the student's writing instruction was changed from a regular to special education setting. In a footnote, the court stated: "We echo the hearing officer's and superior court's concerns that immediate implementation of IEP amendments before issuance of a prior written notice seems to negate the 'prior' in prior written notice."

M.B. v. Hamilton Southeastern Schools, 112 LRP 6281 (7th Cir. 2011). Prior written notice was required when the district refused to provide full-day (double-session) kindergarten, and instead offered a half-day kindergarten.

What about disciplinary changes of placement?

Prior written notice is required a reasonable time before the district proposes to initiate a disciplinary change of placement. A disciplinary change of placement occurs if:

(1) The removal is for more than 10 consecutive school days; or

(2) The child has been subjected to a series of removals that constitute a pattern—

(i) Because the series of removals total more than 10 school days in a school year;

(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and

(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another. 34 C.F.R. § 300.536.

Additionally, IDEA requires that notice of procedural safeguards be given "on the date on which the decision is made to make a removal that constitutes a change of placement."

What about when a student graduates?

"Graduation from high school with a regular high school diploma constitutes a change in placement, requiring written prior notice in accordance with § 300.503." 34 C.F.R. § 300.102(a)(3)(iii).

What does "the provision of FAPE" mean?

The provision of FAPE is broad. The federal regulations define "free appropriate public education" as follows:

Free appropriate public education or FAPE means special education and related services that—

(a) Are provided at public expense, under public supervision and direction, and without charge;

(b) Meet the standards of the SEA, including the requirements of this part;

(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and

(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§ 300.320 through 300.324.

Isn't FAPE what we determine in an IEP meeting?

- Yes. And for that reason, your IEP Team decisions trigger a duty to provide prior written notice.
- Letter to Lieberman, 52 IDELR 18 (OSEP 2008). "Under 34 CFR § 300.17(d), FAPE means, among other things, special education and related services that are provided in conformity with an IEP that meets the requirements of §§ 300.320 through 300.324. Therefore, a proposal [or refusal] to revise a child's IEP… would trigger notice under 34 CFR § 300.503."

We always send a notice before the meeting, is that the same thing?

- Notice of the meeting serves as an invitation to the meeting and is designed to ensure parental participation.
- Prior Written Notice is notice of the implementation of the decisions made in the meeting.

U.S. Dept. of Educ. Discussion of the Federal Regulations, 71 Fed. Reg. 46691

(August 14, 2006). "Providing prior written notice in advance of meetings could suggest, in some circumstances, that the public agency's proposal was improperly arrived at before the meeting and without parent input. Therefore, we are not changing §300.503 to require the prior written notice to be provided prior to an IEP Team meeting."

The IEP Process

Step 1: Present Levels of Academic Achievement & Functional Performance

↓

Step 2: Measurable Annual Goals

↓

Step 3: Special Education Services

↓

Step 4: Progress Monitoring

210

The relationship among PLAAFPs, goals, & services

- *Simi Valley Unified School District* (44 IDELR 106, 2005)
  - "The IEP must show a relationship between the student's present levels of performance, the goals, and the services that are provided to meet those goals."
- In this case a school's IEP was invalid because the IEP lacked goals that were related to the students needs and furthermore the "IEP lacked accurate measurable goals and appropriate strategies for monitoring student progress."

211

Purpose of PLAAFP Statement

- Describes to the parents, in understandable language, where their child is functioning in each area of need
- Describe how the deficit affects the child's performance in general education
- Describes in a clear and specific manner the present levels of performance so that annual goals and special education services can be developed

212

Two Parts of the PLAAFP

1) The educational need arising from a student's disability
2) Effect on a student's involvement in the general education curriculum

213

Measurable Annual Goals

- The purpose of a measurable annual goals is to evaluate the success of a student's special education program
- Goals are measurable statements of what the student will accomplish in one year
- Goals should include academic and functional areas if needed

214

What about Measuring Goals?

- *Rio Rancho Public Schools* (40 IDELR 140, 2003)
  - "A statement that 'a student will improve' does not meet the requirement that a goal be measurable because without a starting and ending point improvement cannot be measured."
  - "Percentages by themselves do not meet the requirement of the law because without starting and ending points they are not measurable."

215

Every Measurable Goal Must:

a) Allow a clear yes or no determination of whether or not it has been achieved

b) Tell evaluators what to do the determine if the goal was achieved

c) Pass the stranger test (different evaluators can agree if the goal has been achieved)

216

Writing A Measurable Annual Goal

Three components of a measurable goal

1) Stimulus material or conditions (the condition)
2) Target behavior (observable)
3) Level of Proficiency (the measure)
4) Criterion for acceptable performance (the test)

217

ESY

- The right of an individual child with a disability to receive ESY services is based on that child's entitlement to FAPE under section 612(a)(1) of the Act.
- Some children with disabilities may not receive FAPE unless they receive necessary services during times when other children, both disabled and nondisabled, normally would not be served.

ESY IS

- Taught by a highly qualified teacher
- Individually tailored to meet student need
- Discussed each year
- At no cost

ESY is NOT

- NOT regular summer school.
- NOT restricted to the reasons on the ESY form.
- NOT limited to specific categories of disability.
- NOT generic for all students participating.

OEC Activity Calendar

- Please refer to your data calendar for due dates.
- We will be holding regional meetings in the fall. So far two are scheduled, Nov. 2 in Charleston and Greenville, November 9.
- Watch email and website and newsletters for more information!

SC Department of Education

QUESTIONS AND ANSWERS

Please hand-in any questions you may have to one of the staff of the Office of Exceptional Children.

On behalf of the staff at the SC Department of Education…

THANK YOU

for all you do for the children of South Carolina

Please drive safely on your way home!