

Iowa's Special Education Advisory Panel

Date: April 9, 2021

Facilitator: Nancy Hunt

Panel Secretary: Celina Turner

Present: Jennifer Aldrich, Liz Atkinson, Cynthia Blackard, Dawn Bonsall, Polly Brekke, Kate Cole, Todd Coulter, Rhonda Haitz, Genevieve Hart, Jessica Iverson, Mary Jackson, Pam Litterer, Kim Neal, Sonia Reyes, Bryan Sage, Tammy Schaapherder, Lisa Shaw, Sandra Smith, Rachel Terry, Karen Thompson, Daniel Van Sant, and Doug Wolfe

Department Staff Present: Barb Guy, Nancy Hunt, and Celina Turner

Absent: Jennifer Anderson, Jodi Bonnett, Pamela Borkowski, Molly Brookhiser Smeltser, Lori Frieden-Janke, Amy Knupp, Keri Osterhaus, Bryan Paulson, Shannon Tackes

Presenters: Barb Guy, Thomas Mayes, Deb Chiodo, and Karen Thompson

Handouts and Materials

- [Agenda](#)
- [ACHIEVE Update](#)
- [Revocation of Consent for Continued Special Education Services](#)
- [Family-School Partnerships in Specially Designed Instruction](#)
- [January 2021 Iowa SPDG Spotlight](#)

Welcome/Introductions

Cynthia Blackard called the meeting to order at 9:02 a.m.

Approval of Consent Agenda

The February 19, 2021, meeting minutes were reviewed. No edits were made. Karen Thompson motioned to approve the minutes. Jessica Iverson seconded the motion. Motion approved.

ACHIEVE Update – Barb Guy

Barb Guy provided an update on the timelines for ACHIEVE. The statewide implementation of the ACHIEVE system will begin in November 2021. The family portal will be available by October 1, 2021. The ACHIEVE development team is currently developing professional learning materials in the areas of technical access, practice and skills, and parent supports.

Barb Guy also provided emerging details regarding the family portal. The first access to the family portal occurs after the learner is determined eligible. The family portal will be accessible on multiple devices, including mobile devices. Families will be able to access multiple learners with one login. Families who have currently given consent to receive electronic communication will be given automatic access to the interactive portion of the family portal. Families who have not provided consent will have the right to review and inspect and to opt in to other components of ACHIEVE.

The information that will be available on the family portal at any time includes the following:

1. Learner Calendar
2. Current IEP and associated files
3. History of completed documents
4. i3 resources
5. Procedural Safeguards
6. Ability to sign electronically

The information that will be available on the family portal when it's "published" includes the following:

1. Progress Monitoring data
2. Draft IFSP/IEPs

Barb Guy also asked the Panel for input on the following seven (7) topics:

1. Progress monitoring data

When it's not a required reporting, Barb Guy questioned whether parents would prefer to see the full progress report or just the data on specific goals. Genevieve Hart commented that she'd be okay with receiving the data on specific goals. Rhonda Haitz stated that she'd prefer to see the entire progress report. Dawn Bonsall questioned if parents could be given the option to choose each time whether they want to review the entire progress report or just specific data. Barb Guy responded that she will take this question back to the ACHIEVE development team.

Barb Guy asked whether the default should be to provide the full progress report if parents cannot be given the option to choose. Daniel Van Sant commented that in his experience, parents don't want to feel as though they don't have access to what everyone else on the IEP team is seeing. His instinct is to provide the full progress report and then let the parents decide what they want to review. Lisa Shaw agreed that providing the full progress report builds trust, integrity, and transparency.

Genevieve Hart and Sonia Reyes questioned whether teachers will be held accountable if progress monitoring data is not being updated frequently. Kim Neal commented that the expectation at Northwest AEA is that progress monitoring data is charted every two weeks. If she finds that a teacher is falling behind in reporting data, she contacts the building principal. She continues to follow up with the building principal until the data is up-to-date. Barb Guy responded that supports will be needed for both teachers and parents regarding what is and isn't an expectation within progress monitoring and the reporting or sharing of that data.

Sonia Reyes also questioned whether this information will be available in other languages. Barb Guy responded that the ACHIEVE development team is working with the vendor regarding available languages.

2. Draft IEPs

Barb Guy asked the Panel for input on providing parents with multiple drafts of the IEP as it's being written. Cynthia Blackard, Genevieve Hart, and Todd Coulter all agreed that they'd prefer to just see the final draft of the IEP.

Barb Guy also asked for input on whether the draft of the IEP should be archived. Bryan Sage commented that only the final version of the IEP should be archived as that's the one with signatures. Lisa Shaw and Kim Neal agreed.

Sonia Reyes commented that any disagreements between the IEP team should be documented somehow in the system. Thomas Mayes responded that disagreements or points of divergence within the IEP team discussion would be documented on the prior written notice.

3. Notice of Destruction of Records

Barb Guy shared that the AEA's have agreed to keep a student's records until the student turns 27 years old. Once the student turns 27 years old, the system will automatically destroy the student's records. The ACHIEVE development team is working with the vendor to develop a notice that will be sent to the family once the student exits indicating that the records will be destroyed once the student turns 27 years old. This notice will also be included in the Procedural Safeguards. Genevieve Hart commented that as long as there's transparency that the records will be destroyed, she doesn't see any issue with destroying the records once the student turns 27 years old.

4. Portal Access after Exit

Barb Guy asked for input on how long families should have access to the portal after the student exits. Rhonda Haitz commented that some families may try to apply for other types of services later on in life and may need access to the records. Barb Guy responded that until the student turns 27 years old, families would still be able to request the records.

Lisa Shaw commented that at a minimum, families should have access for six months after the student exits. At a maximum, she believes families should have access for one year after the student exits. Cynthia Blackard agreed that one year is a good length of time. Tammy Schaapherder suggested including a message on the exit form that states the specific date the family will lose access to the portal. This date can be based off the exit date of the student.

5. Transfer of Rights/Student Access

Barb Guy noted that parents will be given the right to decide when their child should be given access to the portal. She added that parents will still retain access to the portal even if there is a transfer of rights once the student turns 18 years old. Thomas Mayes added that under FERPA, parents retain access rights to their child's records if they are able to claim their child as a dependent individual on their taxes.

6. Access of Others

Barb Guy asked for input on providing parents with the ability to extend portal access to other individuals. Genevieve Hart and Rhonda Haitz commented that if parents can print documents and share information themselves, there's no need to have the ability to extend access. Doug Wolfe commented that access of others can become complicated when foster care and state institutions get involved. He implored the ACHIEVE development team to think about these types of situations when developing the system. Karen Thompson wondered about situations in which PTI is serving in a professional advocacy role. She questioned if there would be a work-around in these situations. Barb Guy responded that she will bring these comments back to the ACHIEVE development team.

7. Revoking Consent

Barb Guy asked for input on providing families with the ability to revoke consent electronically within the system versus submitting a written request. She noted the concern on the educational side that providing families with the ability to revoke consent electronically within the system may lead to consent being revoked in the heat of the moment when disagreements occur. Susan Selby questioned whether a pop-up could appear if the family chooses to revoke consent that provides contact information for the Family and Educator Partnership, ASK Resource, or Disability Rights Iowa.

Bryan Sage questioned if the revocation of consent could remain in a pending status for a certain amount of time. Barb Guy responded that revocation of consent is a parent's decision and it's not the system's place to stall it. She will bring the Panel's comments back to the ACHIEVE development team.

Due Process Decisions – Thomas Mayes

Thomas Mayes reviewed a due process complaint filed against the Ankeny Community School District. The issue raised in the due process complaint was whether the school district's refusal to provide a one-to-one paraprofessional in the child's home to support remote learning constituted a denial of a free appropriate public education. The administrative law judge determined that the school district did not deny the student a free appropriate public education.

The key points of this decision include (1) the decisions were individualized, (2) the school responded reasonably, including providing virtual paraeducators, and (3) the child made progress toward goals. The administrative law judge rejected the argument that the home was the child's least restrictive environment as the home was not the only place the child could receive a free appropriate public education.

For more information, view the due process decision [Ankeny Community School District, 30 D.o.E. App. Dec 5 \(2021\)](#).

Thomas Mayes also discussed the nationwide update from Perry Zirkel, a university professor emeritus of education and law at Lehigh University. In a nationwide review of IDEA state complaints, hearings, and court rulings during the pandemic's first six months—March 2020 to August 2020—Perry Zirkel found the following:

- The number of filings decreased significantly
- Most state complaint filings focused on failure-to-implement claims or procedural claims (e.g., failure to evaluate)
- Mixed results, largely favoring school districts
- Due process complaints also predominantly focus on alleged failure to implement, with the additional requirement in most jurisdictions to provide that the failure to implement was “material” (i.e., significant)
- Courts have dismissed lawsuits based on technical and jurisdictional grounds
- Investigators, hearing officers, and courts have latitude for school officials in light of the unprecedented nature of the pandemic, but with a caution that the pandemic is not a blanket excuse
 - After the initial shock and systemic response to the pandemic emergency, the adjudicative application of a free appropriate public education (FAPE) has tended to afford districts less and less latitude. Hearing officers who may have been provided some forgiving flexibility for the first few months of the pandemic are holding districts more strictly accountable for FAPE during the current school year, including in-person supports when upon proof that distance learning is not reasonably calculated for the individual child's progress.

For more information, view Perry Zirkel's article on [Legal Decisions for Special Education COVID-19 Issues](#).

Family-School Partnerships – Deb Chiodo and Karen Thompson

Karen Thompson and Deb Chiodo reviewed [Family-School Partnerships in Specially Designed Instruction](#). They asked the Panel to review the [January 2021 SPDG Spotlight](#) and provide feedback or suggestions for how the Family-School Partnership can better support, prepare, and guide families in the long run.

The Panel's feedback and suggestions will be reviewed further at an upcoming meeting. For questions on the Family-School Partnership, contact Karen Thompson at karen@askresource.org or Deb Chiodo at deb@askresource.org.

Announcements

- The [Membership Application](#) is due April 23, 2021
- Volunteers are needed for the Membership Committee
 - Jessica Iverson, Lisa Shaw, and Genevieve Hart volunteered to serve on the Membership Committee

- [Proposed Meeting Dates for 2021–2022](#)
 - If Panel members know of a conflict with any of the proposed meeting dates, please contact Nancy Hunt at nancy.hunt@iowa.gov

Future Agenda Items/Emerging Issues

Cynthia Blackard suggested adding the following items to a future agenda:

- Transfer of Rights in ACHIEVE
- Student Access in ACHIEVE
- Family-School Partnerships

No emerging issues were discussed by the Panel.

For any other future agenda items or emerging issues, please contact Cynthia Blackard at cblackard@yahoo.com or Bryan Sage at bssage@gmail.com.

Bryan Sage motioned to adjourn the meeting. Lisa Shaw seconded the motion. Motion approved. Cynthia Blackard adjourned the meeting at 11:50 a.m.

Next Meeting: May 7, 2021

9:00 a.m. – 12:00 p.m.

via Zoom

Facilitator: Nancy Hunt

Minutes: Celina Turner