

Iowa Special Education Advisory Panel

Date: September 18, 2020

Facilitator: Nancy Hunt

Panel Secretary: Celina Turner

Present: Jennifer Aldrich, Jennifer Anderson, Liz Atkinson, Cynthia Blackard, Dawn Bonsall, Polly Brekke, Kate Cole, Todd Coulter, Rhonda Haitz, Jessica Iverson, Mary Jackson, Amy Knupp, Pam Litterer, Bryan Paulson, Sonia Reyes, Bryan Sage, Tammy Schaapherder, Lisa Shaw, Rachel Terry, Karen Thompson, Daniel Van Sant, Doug Wolfe

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

Absent: Jodi Bonnett, Molly Brookhiser Smeltser, Lori Frieden-Janke, Genevieve Hart, Porsha Hart, Kim Neal, Keri Osterhaus, Sandra Smith, and Shannon Tackes

Presenters: Barb Guy, Thomas Mayes, Kathy Bertsch, and Barb Anderson

Handouts and Materials

- [Agenda](#)
- [Compendium of Resources for Districts, Schools, and IEP Teams](#)
- [Shifting to Implementation Discussion 1](#)
- [Shifting to Implementation Discussion 2](#)
- [Do's and Don'ts Presentation](#)
- [Iowa IDEA Information \(i3\) Website](#)
- [Iowa IDEA Information \(i3\) Slide Deck](#)

Welcome/Introductions

The meeting was called to order by Cynthia Blackard at 9:00 a.m.

Approval of Consent Agenda

The May 8, 2020, meeting minutes were reviewed. No edits were made. Doug Wolfe motioned to approve the minutes. Jessica Iverson seconded the motion. Motion approved.

The July 14, 2020, meeting minutes were reviewed. No edits were made. Dawn Bonsall motioned to approve the minutes. Karen Thompson seconded the motion. Motion approved.

Shifting to Implementation - Barb Guy

Barb Guy discussed the [Compendium of Resources for Districts, Schools, and IEP Teams](#), which contains all of the special education resources that have been developed since May 2020. The resources are organized into three stages of emphasis: Re-entry, Ensuring Eligible Individuals Receive a Free Appropriate Public Education (FAPE), and Planning and Providing COVID-19 Recovery Services. She noted that there are only a few resources available for

Planning and Providing COVID-19 Recovery Services as the Iowa Department of Education (Department) wanted to give ample time for districts and schools to digest and apply the first two areas of emphasis. The Department is in the process of developing more concrete materials around Planning and Providing COVID-19 Recovery Services. The Department hopes to release these materials in October 2020.

Barb Guy noted that the Department recognizes that the compendium of resources contains a lot of information and can be hard to digest and understand. Therefore, the Department is now shifting its emphasis from sharing information to helping support effective implementation. The Department wants to ensure that everyone understands the information and is applying it in a way that's correct and effective.

The Panel broke into small groups to discuss the compendium of resources and the Department's shift from sharing information to helping support implementation. The Panel was tasked with identifying what's been working well as well as what's been challenging or misunderstood when it comes to implementation.

Kate Cole stated that while it's great to have the resources in one document, it's overwhelming. She noted that looking for keywords or knowing which topics to look for is helpful. Amy Knupp noted that her group discussed Page I. She noted that it's important to meet the child's needs when moving to virtual learning opportunities and balancing that without having the child on the computer eight hours a day. She also discussed internet access and ensuring that each child has access to internet service. Amy Knupp also mentioned that parents often interpret the information in these resources differently than the way it is intended.

Cynthia Blackard asked for clarification on the definition of compendium. Barb Guy clarified that compendium refers to a place to gather information and resources. Sonia Reyes noted that many parents who are English Language Learners may not know what this term means; therefore, they won't open the document.

Daniel Van Sant commented that the compendium of resources is inaccessible to parents as many of the resources are wordy and technical. He suggested that the Department create family-friendly documents that would help parents better navigate the information.

The Panel broke into small groups again to discuss the strategies or actions that can be done to help address and/or improve the issues mentioned by the Panel. Barb Guy also asked the Panel to think about what data or means can be used to identify those districts or schools that need extra support.

Doug Wolfe suggested communicating with parents in a variety of different ways and in a variety of different languages. Rhonda Hartz suggested working at the community level to help eliminate barriers when it comes to internet access. Liz Atkinson suggested developing coursework activities that students can complete on paper rather than virtually.

Barb Guy noted that the Department's first emphasis was providing this information to educators and administrators so that they had the information when planning for the start of the school year. They also emphasized providing this information to staff so that they could have the information they needed when meeting with parents and families. Therefore, the Department now wants to emphasize providing this information to parents and families.

Barb Guy mentioned that the AEA Directors of Special Education are discussing how to help districts with implementation. She noted that the Directors are holding monthly webinars with Local Education Agencies (LEAs) and coordinators of special education. She also briefly reviewed the [Do's and Don'ts](#) presentation that the Directors are using to help support implementation.

Barb Guy also discussed that the Department is trying to find data that is close to real-time data to help identify districts that need additional support. The data that was previously collected was not beneficial in proactively identifying districts that need additional support. Going forward, the data will not be used to proactively identify districts in need of support but will be used in cases where it's already known that a district is struggling and needs additional support. The AEA Directors of Special Education are also looking to create a series of questions that regional administrators can use to help identify problem areas and red flags. In these cases, the regional administrators can help coach districts. The Directors are also working to create parent-friendly resources on a number of topics, including items families should know about Page I as well as information to help families prepare for the Page I meeting.

Chapter 103 Update – Thomas Mayes

Thomas Mayes provided an update on Chapter 103. He directed the Panel to the following two documents:

- [Notice of Intended Action](#)
- [Chapter 103 Chronology](#)

Thomas Mayes stated that due to the COVID-19 pandemic, the Governor's office asked all State Boards, commissions, agencies, and departments to stop any rulemaking that was not directly related to the pandemic. Therefore, the Department stopped the rulemaking on Chapter 103. He stated that the Department gave notice of its intent to rulemaking at the State Board meeting in August 2020. There was a public meeting held on September 15, 2020. The Department is going to consider the public comments heard at this meeting. He noted that the earliest possible State Board action is November 18, 2020. If the State Board acts in November, the earliest effective date would be January 20, 2021.

Thomas Mayes reviewed the points of contention from the previous rulemaking proceedings. The four points of contention include the following:

- *Notice to Parents* – Proposed Rule 103.7(2)“b”: “A school must attempt to notify the student’s parent using the school’s emergency contact system as soon as practicable after the situation is under control, but no later than one hour or the end of the school day, whichever occurs first.”
- *Quantum of Threat of Injury* – Proposed Rule 103.7(1)“a”: “To prevent or terminate an imminent threat of bodily injury to the student or others....”
- *Size of Seclusion Room* – Proposed Rule 103.9(2): “The dimensions of the room shall be of adequate width, length, and height to allow the student to move about and recline safely and comfortably, considering the age, size, and physical and mental condition of

the student being secluded. The interior of the room must be no less than 56 square feet, and the distance between opposing walls must be no less than 7 feet across.”

- *Continued Use of Seclusion Rooms of Nonconforming Size* – Proposed Rule 103.9(16): “Assuming approval pursuant to subrule 103.9(15), a school may continue to use a room that otherwise complies with this rule but for subrule 103.9(2) for a period of five years from [the effective date of this chapter], or whenever the portion of the school containing the room is renovated or remodeled, whichever occurs first.”

Rhonda Haitz questioned the justification for the five-year stipulation in regards to the continued use of seclusion rooms of non-conforming size. Thomas Mayes clarified that the logic model for using a room of non-conforming size is ADA compliance. If a school is built under Standard 1 and the ADA Standards change, that building does not need to change until it’s retrofitted or remodeled. He also noted that the five-year timeframe is a backstop so that all rooms must be made compliant within those five years. Rooms of non-conforming size must also be inspected for safety. Rhonda Haitz also questioned whether districts that have a seclusion room of non-conforming size are required to have the local fire department inspect the room. Thomas Mayes responded that all seclusion rooms must be inspected for safety as well as all portions of Chapter 103, such as proper lighting, proper ventilation, and exposed pipes.

Polly Brekke questioned whether multi-level buildings are required to have a seclusion room on each level. Thomas Mayes stated this would be locally determined and based on local needs. He clarified that if a school has more than one seclusion room, each room would need to meet the Chapter 103 requirements.

Liz Atkinson discussed her concern around the potential harm and injuries that can occur to a child when being transported to the seclusion room. She also noted her concern that the Chapter 103 requirements don’t include a stipulation that the child must have a health assessment performed by a school nurse or other certified health official after the incident. Thomas Mayes responded that the Chapter 103 requirements are a minimum. There is nothing stopping a school or district from adding additional stipulations, such as requiring a health assessment by a school nurse, within a certain timeframe. He also stated that her concern is noted, and he will bring it back to the internal drafting team at the Department.

Dawn Bonsall asked whether schools are required to have seclusion rooms. Thomas Mayes responded that this is a local choice. If a school does have a seclusion room, the room must meet the requirements of Chapter 103. Dawn Bonsall then asked about what happens in a district that doesn’t have a seclusion room when a situation occurs that requires seclusion. Thomas Mayes stated that this would involve restraint. He mentioned that one replacement behavior in school districts that have banned seclusion rooms is increased calls to law enforcement. Therefore, he encourages districts and schools to be thoughtful and prudent when deciding to ban seclusion rooms.

Thomas Mayes also stated that he will take administrative notice of the Panel’s [public comment letter on Chapter 103](#), which was written in January 2019. He’ll use his discretion to incorporate those comments into this round of rulemaking.

Therapeutic Rooms – Kathy Bertsch and Barb Anderson

Kathy Bertsch and Barb Anderson shared an overview of [Senate File 2360](#). Senate File 2360 requires a comprehensive approach to create a safe learning space for students and teachers. The requirements of Senate File 2360 are organized around five topics:

1. Response and Reporting of School Behavioral Challenges
2. Professional Responsibilities and Protections
3. District-Established Therapeutic Classrooms
4. Evidence-based Standards and Guidance
5. Requirements of Institutes of Higher Education

Kathy Bertsch addressed the first topic of Response and Reporting of School Behavioral Challenges. She stated that an individual IEP and/or behavior intervention plan (BIP) shall not include provisions for clearing all other students out of the classroom in order to calm the child. A classroom clear may only be used to prevent or terminate an imminent threat of bodily injury. If a student has a classroom clear in their IEP and/or BIP, the IEP team must remove such provision from the IEP and/or BIP at the earliest convenience through an amendment or annual review of the IEP. A classroom clear must not be used to quell disturbances where an imminent threat of bodily injury is not likely.

In the event of a classroom clear, the school's principal must notify all parents of children in the class that was cleared. Notifications must be within 24 hours of the classroom clear and preferably by the end of the day. When parents are notified of a classroom clear, the principal must maintain confidentiality of all personal information regarding student(s) involved in the incident giving rise to the classroom clear. Within 24 hours, and preferably by the end of the day, the principal must also request a meeting with the parent of the child whose behavior caused the classroom clear. If the child whose behavior caused the classroom clear has a behavior intervention plan (BIP) and/or IEP, the classroom teacher must call for and be involved in the review and potential revision of the BIP and/or IEP.

When the IEP team meets to review the IEP and/or evaluate a student whose behavior has caused a classroom clear, the Area Education Agency personnel, in collaboration with the district, may inform the parent of individual or family counseling services available in the area. Teachers must report to the school and document all incidents of assault and violence resulting in injury and/or property damage. The district must report to the Iowa Department of Education an annual count of all incidents of assault and violence resulting in injury or property damage and transfer or referral to a therapeutic classroom. The report must disaggregate the data by type of incident and demographics of victim(s) and perpetrator(s).

Barb Anderson then discussed the third topic of District-Established Therapeutic Classrooms. A therapeutic classroom means a classroom designed for the purpose of providing support for any student whose emotional, social, or behavioral needs interfere with the student's ability to be successful in the current educational environment, with or without supports, until the student is able to successfully return to the student's current educational environment, with or without supports, including but not limited to the general education classroom.

In the last legislative session, funds were appropriated for the Department to develop a Districted-Established Therapeutic Classroom Incentive Grant for school districts to establish therapeutic classrooms. The grant will be developed and awarded during the 2020–2021 school year and extends from July 1, 2021 – June 30, 2022. The grant provides an up-front award for start-up costs during fiscal year 2022.

In addition, *Therapeutic Classroom – Claims* outlines allowable reimbursement to school districts for the costs of providing transportation to therapeutic classrooms for students who have not been assigned a weighting through special education. This reimbursement was also appropriated from July 1, 2021 – June 30, 2022, for all LEAs.

As part of developing the incentive grant program, the Department must perform the following:

- Create a therapeutic classroom incentive grant program to provide competitive grants to school districts for the establishment of therapeutic classrooms
- Develop a grant application and selection and evaluation criteria, appropriated \$1,582,650 for the fiscal year beginning July 1, 2021, and ending June 30, 2022, for the establishment of therapeutic classrooms
- Award grants based on a competitive process; equitably across small, medium, and large school districts, prioritizing programs serving the most students

The school districts that apply for the incentive grant are allowed to collaborate and partner with one or more school districts, AEAs, accredited non-public schools, nonprofit agencies, and institutions that provide children’s mental health services in mental health and disability services regions. School districts may, but are not required to, apply for the therapeutic classroom grant when it becomes available.

The competitive grant application will open in January – February 2021, and the applications will be due March – April 2021. The grant awards will be determined and announced in April – May 2021, and the grant agreements will be finalized in July – August 2021. Grant funds must be distributed prior to the first day of school.

Senate File 2360 also reiterated that the placement of a child requiring special education in a therapeutic classroom must be the least restrictive environment. Placement decisions must follow Chapter 25B (Special Education), the Iowa Administrative Rules for Special Education, and the Individuals with Disabilities Act. The State Board was required to adopt rules pursuant to Chapter 17A to administer this section. These rules are currently being prepared.

Amy Knupp questioned whether districts that created therapeutic classrooms this year will be eligible for the grant next year. Kathy Bertsch responded that this will be dependent on the grant application process and the requirements for the grant, such as whether the district is expanding and the need for those resources. She noted that districts that created therapeutic classrooms this year will be eligible for reimbursement as long as they meet the reimbursement requirements.

i3 Update - Barb Guy

Barb Guy reviewed the i3 system. She reviewed the [Site Updates](#) page, which includes a training to introduce all users to the i3 system and to provide an overview of the key features of the site. This training is available to everyone. She also noted that the outreach to parents around this system has stalled due to COVID-19. In light of the transition back to school this fall, the outreach to parents has shifted to a more gradual plan. She asked the Panel to provide ideas for ways to share the i3 system virtually with parents and families. The Panel suggested ideas such as hosting a webinar, recording short training videos, sharing information via social media, passing out fliers or magnets, and partnering with other parent support groups to help share the information.

Barb Guy shared that, anecdotally, the i3 developers have received a lot of positive comments about the system from individuals who may not have used the procedures manual very often. The individuals who used the procedures manual a lot are struggling with the new system as the deeper information is two to three clicks in. Therefore, the developers are looking to incorporate bookmarks or other methods to help make the deeper information more accessible.

Announcements

The [Tri-State Regional Special Education Law Conference](#) will be held virtually on November 5-6, 2020. All Panel members are eligible to attend. Panel members interested in attending should complete the interest form. The Department will cover all registration fees for approved Panel members.

Rhonda Haitz commented that many families walked away feeling disheartened after last year's Law Conference. Therefore, she wants this year's Law Conference to focus on building strong relationships and providing IEP teams with the tools necessary to better understand each other.

Bryan Sage asked whether it was an option for Panel members to only attend one day of the conference. Nancy Hunt clarified that, yes, this will be an option. Karen Thompson stated that ASK Resource can stipend parents if they wish to attend the conference but have to take a leave without pay day from their job.

Nancy Hunt also announced the new SEAP Google Site. The old Google Site will be retired. Information will be sent to all Panel members once the new Google Site goes live.

Future Agenda Items

Barb Guy suggested adding the Panel's Chapter 103 letter as a future agenda activity. Tammy Schaapherder suggested adding a discussion on lockdown drills and how this impacts special education students. Dawn Bonsall suggested adding a discussion around alternate assessment.

Lisa Shaw moved to adjourn. Amy Knupp seconded the motion. Motion approved. The meeting was adjourned at 12:35 p.m.

Next Meeting: October 23, 2020

9:00 a.m. – 12:30 p.m.

Zoom

Facilitator: Nancy Hunt

Minutes: Celina Turner