



**ADVISORY
COUNCIL** for the
EDUCATION of
STUDENTS with
DISABILITIES

Annual Report
July 2008 – June 2009



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Introduction

According to state and federal guidelines this Advisory Council has responsibility annually to issue a report to the State Board of Education, the Governor and the State Legislature. Additionally, this report will be provided to the Tennessee Department of Education. The information contained in this report represents a period of a school year showing the progress made in programs for children with disabilities. It is the Advisory Council's intention to work with the Department of Education to ensure the provision of appropriate services for children with disabilities throughout the State of Tennessee. This is accomplished through...

- Reporting by the Department to the Council
- Council giving feedback to the Department
- Public input presented to the Council
- Experiences of council members, who represent consumers

Mission Statement

The mission of Tennessee's Advisory Council for the Education of Students with Disabilities is to ensure that all students with disabilities are provided with services and opportunities necessary to develop to their full potential.

Authority

Tennessee's Advisory Council for the Education of Students with Disabilities was established in 1972 and is required by Tennessee Code Annotated 49-10-105. This legislation states that the council "shall advise and consult with the Governor, the Commissioner of Education, the State Board of Education, and the Director of the Division of Special Education."

The Individuals with Disabilities Education Act (IDEA), § 1412(a) (21), requires that the state establish and maintain an advisory panel *for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state*. Regarding duties, the advisory panel shall:

- ❖ *Advise the Department of Education of unmet needs within the state in the education of students with disabilities;*
- ❖ *Comment publicly on any rules or regulations proposed by the state regarding the education of students with disabilities;*
- ❖ *Advise the Department of Education in developing evaluations and reporting data to the U.S. Secretary under Section 618;*
- ❖ *Advise the Department of Education in developing corrective actions plans to address findings identified in federal monitoring reports under this part;*
- ❖ *Advise the Department of Education in developing and implementing policies relating to the coordination of services for children with disabilities; and*
- ❖ *Advise the Department of Education in serving the needs of students with disabilities in adult prisons.*

PART ONE

COUNCIL GOALS AND DEPARTMENT ACTIVITIES

The following were goals established by the Advisory Council for July 2008 – June 2009. The activities described represent actions carried out by the Advisory Council for the Education of Students with Disabilities and the Division of Special Education (DSE) along with the Tennessee Department of Education (TDOE) related to the goals of the Council. Data reflecting the provision of special education and related services throughout the state is reported with associated council goals.

Council Goal 1: Promote improved student learning/progress.

COUNCIL ACTIVITIES

The Council monitors activities by the Division of Special Education to help ensure students with disabilities are progressing, academically, behaviorally and socially. The Council receives information through Adequately Yearly Progress reports, the State Annual Performance Report, the General Supervision Enhancement grant, and the Office of Accountability Graduate Report.

DEPARTMENT ACTIVITIES

State Performance Plan: FAPE in the LRE –

Program information provided to the U.S. Office of Special Education Programs (OSEP) included special education and related services delivered and student progress in general curriculum participation as part of the Individualized Educational Plan (IEP) along with graduation and drop-out rates for students with disabilities as compared to their non-disabled peers. Performance results for children with disabilities on statewide academic achievement tests can be found at: <http://tn.gov/education/reportcard/index.shtml>.

Tennessee GSEG Project -

In April of 2007 the U.S. Department of Education announced an option for states to develop and administer an alternative statewide assessment based on Modified Academic Achievement Standards (MAAS) for students with disabilities. The assessment's purpose is to provide a more appropriate means of measuring the skills of a student whose disability interferes with performance on large-scale assessments. Tennessee has been awarded a General Supervision Enhancement Grant (GSEG) for an initiative that includes development of a modified academic achievement assessment, support and training for LEA implementation of the TCAP-MAAS and the writing of high quality, standards-based IEPs. The TCAP-MAAS is now in the field test process. Results from this spring's testing will be used to further refine the test and GSEG activities will focus on refining eligibility criteria and training for IEP teams, including parents. The objectives of the GSEG activity include development of a more appropriate assessment for students with disabilities and providing the training and support needed for IEP teams in developing standards-based IEPs. The main goal is to give full access to the general curriculum while meeting the individual needs of a student, and then assessing skills in a manner that takes the student's unique characteristics into account. The assessment (TCAP-MAAS) must go to the U.S. Department of Education, NCLB, for peer review. Documents and evidence are expected to be presented for review and approval in the Fall of 2009. The assessment, if approved or given provisional approval, will be used in the Spring of 2010 for TCAP assessment. Initial guidance documents can be found on the Division of Special Education website under Assessment.

Graduation Rates -

Tennessee's graduates have a choice of three (3) different exit documents. There is the high school diploma, the transitional certificate and the IEP certificate. The high school diploma is awarded to students who (1) earn the specified 22 units of credit.

The transitional certificate is awarded to students who have taken classes toward a high school diploma (22 units of credit) and who have satisfactorily complete and individualized program and have satisfactory records of attendance and conduct.

The IEP certificate is awarded to students with disabilities, who have satisfactorily completed an individualized education program, successfully completed a portfolio and who have satisfactory records of attendance and conduct.

The percent of students in special education exiting with a regular diploma is defined as the number of students receiving special education services who graduated with a regular diploma divided by the sum of students receiving special education services age 14 or older who left school with a regular diploma, with a certificate, after reaching maximum age or by dropping out.

A 1.5% yearly increase in the percent of students in special education exiting with a regular diploma was Tennessee's target. An increase was obtained in the 2008-2009 school year. The state's rate increased from 59.4% to 63.2%.

Table 1.1
Percentage of Students Who Graduated with a Regular Diploma
(Graduation Rate expressed as a percentage of students exiting)

| | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 |
|---|-----------|-----------|-----------|-----------|
| Percent of Students in Special Education Exiting with a Regular Diploma | 47.7% | 55.4% | 59.4% | 63.2% |

Data Sources: Tennessee Report Card 2008; Tennessee's 2006, 2007, 2008 and 2009 OSEP DANS Table 4 – Report of Children with Disabilities Exiting Special Education and Tennessee's NCLB Accountability Workbook (June, 2007)

Drop-out Rates -

Tennessee defines a drop-out as an individual who (1) was enrolled in school at some time during the previous school year; (2) was not enrolled at the beginning of the current school year; (3) has not graduated from high school or completed a state or system approved education program; and (4) does not meet any of the following exclusionary conditions: (i) transfer to another public school; school system private school, or state – or system-approved education program; (ii) temporary absence due to suspension or illness; or (iii) death.

Tennessee calculates the percentage of students dropping out by dividing the number of students with disabilities 14 years and older who dropped out by the number of students with disabilities 14 years and older who graduated with a diploma, received a certificate, reached the maximum age for services or dropped out. The state determines drop-out rate via an event rate.

NOTE: ESEA data (general education) now required by OSEP and which is reported in the Consolidated State Performance Report as well as data from special education tables was used to determine the drop-out rate for 2008-09. In previous years only data from special education tables was utilized.

Actual Target Data through 2008-2009:

| | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 |
|---|--------------|--------------|--------------|---------------|
| Percent of Youth with IEPs Dropping Out of High School | 19.8% | 16.4% | 16.9% | 14.99% |

Data source documents: Tennessee's 2006, 2007, 2008 and 2009 OSEP DANS Table 4.

Council Goal 2: Promote expanded access to and quality of services to eligible students with disabilities to better prepare them for transition into their future environments.

COUNCIL ACTIVITIES

The Council is updated regularly on the monitoring of the local school systems implementation of appropriate Individual Educational Plans as related to Free Appropriate Public Education (FAPE). The Council requests feedback on the collaborative efforts the Tennessee Department of Education (TDOE), Department of Rehabilitative services and the Division of Intellectual Disabilities Services.

DEPARTMENT ACTIVITIES

Child Count 618 Exit Data –

**Table 2.1
Child Count 618 Exit Data FFY 2008-2009**

Total Number of Children exiting Part C at age 3 who were eligible for services under Part B

| | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 |
|---|-----------|-----------|-----------|-----------|
| Total # of children exiting Part C at age 3 | 2,293 | 2,185 | 2,349 | 2,333 |
| Total # of children exiting Part C at age 3 who are eligible for Part B services | 1,320 | 1,193 | 1264 | 1,231 |
| Percentage of children who exited Part C at age 3 who were eligible for Part B services | 57% | 55% | 54% | 53% |

Data Source: Federal 618 Child Count Table for Part C data collections

The Early Childhood Transition area has been monitored in past cycles in the areas of parent training for transition from Part C to Part B, 90 day transition meetings, and community service information provided to families of non-eligible children.

Through Part C/Section 619 Analyses: Tennessee has considered ways in which data may be analyzed to answer SPP preschool transition questions when the state electronic database development is completed. One such analysis would involve the identification of children from the Tennessee Early Intervention Data System (TEIDS, ages 0-3) who turned three and who will continue to be tracked in the TN EasyIEP (ages 3-21) statewide electronic database.

Progress has been made on developing a unique identifier that will be consistent from the entrance into Tennessee’s Early Intervention System until completion of their school experience.

A unique identifier has been developed that will be consistent from the entrance into Tennessee’s Early Intervention System until completion of their school experience.

Council Goal 3: Promote inclusive educational services that meet the needs of all students, regardless of their abilities, and promote a sense of belonging and mutual respect for all students while affirming each student’s individuality.

COUNCIL ACTIVITIES

To ensure inclusive educational services are provided in Tennessee, the Council studies the information provided by the system-wide monitoring, parent surveys, data from the EasyIEP program, and the State Annual Performance Report, Indicator 5.

DEPARTMENT ACTIVITIES

Early Childhood (aged 3 through 5) in settings with typically developing peers

NOTE: Changes continue to be made for the reporting of preschool settings information (for ages 3 through 5) at the federal level to be more consistent with LRE data reported for children ages 6 through 21. Therefore this area was not required to be reported on for the 2007-2008, 2008-2009 and 2009-2010 school years.

Children with IEPs (aged 6 through 21) educated with non-disabled peers to the maximum extent appropriate

A. Removed from regular class less than 21% of the day:

| Children removed from regular class less than 21% of the day 80% | Total number of children with disabilities | Percentage |
|--|--|------------|
| 62,762 | 106,100 | 59.15% |

B. Removed from regular class greater than 60% of the day

| Children removed from regular class greater than 60% of the day | Total Number of Children with Disabilities | Percentage |
|---|--|------------|
| 14,045 | 106,100 | 13.24% |

C. Children served in separate programs

| Children in Separate Programs* | Total # of Children with Disabilities | Percentage |
|--------------------------------|---------------------------------------|------------|
| 1,875 | 106,100 | 1.77% |

*Combined Separate Facilities includes separate public/private schools, public/private residential and homebound/hospital.

Source: Data from Table 3 of the December 1, 2008 Federal Census Report. Percent of children with IEPs age 6 - 21.

The data for the 2008-2009 school year was obtained from Table 3 of the December 1, 2008 Federal Census Report. Data reflect that 59.15% of children with IEPs were removed from Regular Class less than 21% of the day in comparison to 56.31% last school year. The state target of 54.5% has been met and exceeded. Data also reflects that 13.24% of children with IEPs are removed from Regular Class greater than 60% of the day in comparison to 13.52% last school year. The state target of 13.5% has been met. Children served in combined separate programs, which includes separate public/private schools, public/private residential schools and homebound/hospital placements comprise 1.77% of children served. This is less than the 3.71% national average which reflects that this target was met as well.

For 2008-09 all 136 school districts are using the statewide special education data system for reporting student level data. This consistency of data reporting provides for a high level of data accuracy as these student level data come directly from the IEP information. TN continues to meet the state targets relative to this indicator. Districts in the state generally provide a continuum of placements based on the least restrictive environment.

Council Goal 4: Promote increased quality and quantity of personnel serving eligible children and youth with disabilities.

COUNCIL ACTIVITIES

The Council is provided information from school systems’ IDEA Comprehensive Applications, federal Office of Special Education Programs (OSEP) Reports, the state preliminary reports and the Office of Licensing and Certification. The Council also receives reports and materials from the Become A Special Educator in Tennessee (Base-TN) program to monitor the need for teachers throughout the state.

DEPARTMENT ACTIVITIES

Personnel Employed and Needed to Provide Special Education and Related Services for Children and Youth with Disabilities - School systems annually provide the number of personnel, including administrators, teachers, related services providers, paraprofessionals, and other providers, employed to meet the identified educational needs of all children with disabilities in the State ages 3-21.

Table 4.1

| | School Year 2005-06* | School Year 2006-07* | School Year 2007-08 | School Year 2008-09 |
|---|-------------------------|-------------------------|------------------------|------------------------|
| Teachers – Ages 3-5 | 894 | 709 | 488 | 502 |
| – Ages 6-21 | 5,302 | 6,070 | 6,494 | 7,280 |
| Other Special Education and Related Services Personnel | 7,602 | 8,204 | 7,752 | 8,351 |
| Total | 13,798 | 14,983 | 14,734 | 16,133 |

Data Source: Report for Comprehensive Plan for Providing Special Education Services (OSEP Table 2)

*Some teachers in the “Teachers-ages 6-21” range were counted in the “Teachers-ages3-5” range because they serve at least one student in the 3-5 age range during this school year.

Table 4.2

Teachers without proper licensing

| | School Year 2005-06 | School Year 2006-07 | School Year 2007-08 | School Year 2008-09 |
|-----------------------------------|------------------------|------------------------|------------------------|------------------------|
| Waivers | 175 | 101 | 116 | 95 |
| Permits | 165 | 98 | 87 | 73 |
| *Alternative & Interim Licensures | 317 | 231 | 354 | 627 |

*New category 2003-04

Waiver of Employment Standards – Permission granted to a local school system to employ one who holds a valid teaching license but does not have the appropriate endorsement. A waiver may be granted when the school system is unable to obtain the services of a qualified teacher for the type and kind of school in which the vacancy exists.

Permit to Teach – Permission granted to a local school system to employ one who does not hold a valid teaching license when the system is unable to obtain services of a qualified teacher for the type and kind of school in which the vacancy exists.

Alternative and Interim Licensures – Alternative A, C & E and Interim B Licenses are obtained through the TDOE upon meeting all applicable requirements.

Council Goal 5: Promote adequate special education funding and improving procedures for allocation of funds.

COUNCIL ACTIVITIES

The Division of Special Education receives a report on the distribution of federal and state funds, special grants and the school system's use of stimulus money on a yearly basis.

DEPARTMENT ACTIVITIES

There has been concern that the current state funding formula may provide financial incentive for more restrictive placements and programming (*Tennessee IDEA Continuous Improvement Plan, July 2002, Area of Concern XVII.A*). For the more restrictive placements, more funding is available; **however**, LEAs must contribute additional local funds. Therefore, it is not an incentive to place children in more restrictive settings for the purpose of additional funding.

**Table 5.1
Federal Funds Available for the Education of
Students with Disabilities**

| PROGRAM | 2005-2006 | 2006-2007 | 2007-2008 | 2008-2009 |
|--|---------------|---------------|---------------|---------------|
| Source of Funds: Federal | | | | |
| Individuals with Disabilities Education Act, Part B Grant Funds | \$215,277,020 | \$214,982,394 | \$218,638,925 | \$221,641,759 |
| Individuals with Disabilities Education Act, Preschool Grant Funds | \$6,955,848 | \$6,889,673 | \$6,889,672 | \$6,775,233 |

Data Source: U.S. Department of Education Grant Award Notification Letter

State Funds (BEP) – State educational funds are distributed under the provisions of the 1992 Education Improvement Act. LEAs are granted flexibility in the use of these funds and no specific dollar amount is earmarked for any program or activity.

Federal Funds – Federal IDEA allocations are based on the amount that each State received from FFY 1999 funds for IDEA, Part B funds. (Federal allocations for IDEA, Preschool funds are based on the amount that each State received from FFY 1997 funds.) The general population in the age range for which each State ensures a free appropriate public education (FAPE) to all children with disabilities, and the number of children living in poverty in the age range for which each State ensures FAPE to all children with disabilities.

Council Goal 6: Promote improved state and local information management related to special education.

COUNCIL ACTIVITIES

The Council supports the state-wide student management system. Special reports are given regarding the Easy IEP/Census and the Tennessee Easy Intervention Data System.

DEPARTMENT ACTIVITIES

State procedures and practices for ensuring collection and reporting of accurate and timely data -

The Statewide Student Management System (SSMS) pilot phase began implementation during the 2004-2005 school year. The final phase of SSMS was completed during the 2007-2008 school year. SSMS included a complete Student Information System (SIS) for all students and an integrated special education module, EasyIEP. Having one integrated system allows for a single point of entry for student enrollment data which is then shared to EasyIEP. This data sharing process is efficient for school district personnel and improves the quality of student data by preventing duplication of enrollment information.

The Department provides LEAs with direct, intensive and on-going technical assistance regarding writing students' Individualized Education Plans (IEPs) and data collection for state and federal reports. School districts implementing EasyIEP or EasyCensus generate most of their state and federal special education data reports using the internet-based system. EasyIEP/EasyCensus ensures data accuracy by providing extensive data validation checks as data are entered during the IEP writing process. The current long range plan is that the Department will continue working with the EasyIEP vendor, Public Consulting Group, Inc., to provide the special education data system to LEAs for the next 4 years. However, due to budget constraints, the provision of the enrollment system for all students, with and without disabilities, is no longer going to be provided as a direct service from the Department to LEAs. Instead, LEAs will be given the opportunity to purchase the SIS package, Star Student, through a statewide general contract purchase process.

The Tennessee Early Intervention Data System (TEIDS) is the comprehensive data system for the provision of IDEA Part C services (for children ages birth to three). TEIDS includes an Individualized Family Service Plan (IFSP) writing tool; state and federal data collection and reporting; service logging and billing for eligible infants and toddlers. The data management team for the Division is currently working together to link TEIDS with EasyIEP/EasyCensus to create a birth through age twenty-two data system for service provision to infants, toddlers, children and young adults with disabilities in Tennessee.

Council Goal 7: Promote enhanced communication among community, educators and stakeholders on special education services and policies.

COUNCIL ACTIVITIES

The Council commends the TDOE for the informative website provided the schools, families and public. The site provides training dates, conference information, resources, legal updates and contact information of staff. In addition, information is provided the Council through the data collected in Indicator 8 of the State Performance Report.

DEPARTMENT ACTIVITIES

The provision of a free appropriate public education to children with disabilities is facilitated through parent involvement in special education services.

Parent surveys:

During FFY07 school year, the *Parent Involvement Survey* was sent to all parents of students with disabilities ages 3 through 21 in the 30 LEAs monitored that year by the Division of Special Education. (All LEAs are selected for monitoring over a 4-year cycle by a means described in the 2005-2010 SPP, indicator # 8.) The State's three largest LEAs complete this survey annually. In FFY07 40,139 were distributed by the selected LEAs to parents. In almost all cases surveys were mailed. There were 11,334 surveys returned with some usable data for a response rate of 28.2% (11,334 /40,139).

The surveys were administered locally and entered at each district. Summary data were sent to TDOE for analysis. Parents had the option of not completing any question. Item one on the survey queried parents regarding schools facilitation of parent involvement. Of the 10,630 parents responding to item one, 10,311 (97%) agreed with the item (10,311/10,630).

Aggregate respondent data from LEAs were summed and found to have respondent representation from: a) five of six locale types, b) three grand divisions of the state, c) poverty level average of approximately 18%, and d) the three major ethnic groups in the state. The state considers 97% agreement to be a clear indication that schools are involving parents as a means of improving services and results for children with disabilities.

Further analysis across all items showed that the percent agreement across all items answered was 93.47%. That is, 236,106 of the parent responses across all items answered (252,603) were in agreement.

Complaints:

Parental Complaint data continues to be analyzed for trends and increasingly used as a data source for assessing LEA training needs. Complaint logs now contain fields specifically for concerns about Parent Training/ Access to Information. The complaint resolution process is now requiring more specific corrective action plans. The technical assistance offered in that resolution more frequently recommends parent and staff training activities. A new LEA technical assistance manual on Parent Complaints was distributed spring of 2004.

Collaboration

Collaborates with and provides support for Leaders in Education Networking for Kids (L.I.N.K.) whose goals include: training parents of students with disabilities on the special education process and to advocate for their own children's education.

Council Goal 8: Encourage implementation of school-wide positive behavior supports.

COUNCIL ACTIVITIES

The Council continues to support the collaboration between universities, school systems and the TDOE. The Council reviews the activities of the projects and data collected concerning the suspension rates and academic gains of the school in the various projects. The Council also supported training of appropriate school personnel to ensure schools are complying with the new Seclusion/Restraint Law.

DEPARTMENT ACTIVITIES

Five (5) universities, under contracts with the TN Department of Education, have provided statewide service to schools in the area of Positive Behavior Supports, reaching a wide variety of students with disabilities. Each project location has done multiple training sessions for teachers, and have each project has provided technical assistance for from three to thirty-one schools within their regions during 2007-2008.

Most focus on providing schools with the training and knowledge to form teams within the school that prevent misbehavior and teach appropriate behavior, and provide students with positive support when improvement occurs. This necessitates total buy-in of the PBS concept by administrators, staff, and parents of students. Workshops and satellite broadcasts that deal with Positive Behavior Supports are routinely scheduled throughout the year.

Data, an integral part of the projects, is being collected to examine the relationship among the adherence to PBS principles and suspension rates and academic gains in Tennessee schools. All five universities have presented at various state and national conferences dealing with Positive Behavior Supports.

PART TWO
STATISTICAL INFORMATION

NUMBER OF STUDENTS WITH A DISABILITY

Both of the following two tables contain data on the number of children with disabilities served by the local school systems. The first table shows a total number of students receiving special education services as of the end of the school year (by rank) with comparisons of the past four school years. Since it is a cumulative count, a student could possibly be counted more than once if they received services in more than one district during the course of the school year.

| | School Year 2005-2006 | School Year 2006-2007 | School Year 2007-2008 | School Year 2008-2009 |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| Specific Learning Disability | 51,591 | 47,410 | 43,576 | 49,256 |
| Speech or Language Impairment | 35,461 | 34,304 | 31,111 | 35,352 |
| Intellectually Gifted | 16,278 | 17,064 | 16,883 | 17,989 |
| Other Health Impairment | 12,652 | 12,481 | 11,643 | 13,017 |
| Intellectual Disability (formerly "Mental Retardation") | 13,615 | 10,407 | 9,789 | 9,018 |
| Developmental Delay | 6,957 | 7,072 | 7,212 | 8,121 |
| Other (Functionally Delayed) | 4,410 | 4,948 | 4,535 | 5,135 |
| Emotional Disturbance | 4,281 | 4,068 | 3,791 | 4,563 |
| Autism | 2,892 | 3,744 | 4,014 | 6,257 |
| Multiple Disabilities | 1,987 | 1,938 | 1,929 | 2,258 |
| Hearing Impairment | 1,511 | 1,224 | 1,233 | 1,365 |
| Orthopedic/Physical Impairment | 1,098 | 949 | 943 | 921 |
| Visual Impairment | 615 | 581 | 596 | 629 |
| Traumatic Brain Injury | 303 | 307 | 301 | 355 |
| Blind | 182 | 161 | 160 | 190 |
| Deafness | 160 | 151 | 155 | 179 |
| Deaf-Blindness | 5 | 3 | 3 | 9 |
| TOTAL | 153,998 | 146,812 | 137,874* | 154,614 |

*The implementation of EasyIEP® was not complete in all districts at the time of reporting for the 2007-08 School Year; therefore, a different data source was used which gave a "snapshot" count.

Data Source: School Years 2005-06, 2006-07 & 2008-09: State End of the Year Frequency Count Report. School Year 2007-08: October Report for Chancery Court in the Case of Val Rainey vs. the Tennessee Department of Education.

This table shows a “snapshot” count of students (ages 3-21+) receiving services as of December 1st. This data does not contain duplications; however, since it is used in a federal report, it does not include the state-defined disability categories of Intellectually Gifted or Functionally Delayed.

| | School Year 2005-2006 | School Year 2006-2007 | School Year 2007-2008 | School Year 2008-2009 |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| Specific Learning Disability | 46,579 | 45,878 | 45,171 | 43,583 |
| Speech or Language Impairment | 32,494 | 32,937 | 33,897 | 33,584 |
| Other Health Impairment | 11,548 | 11,868 | 12,154 | 11,947 |
| Intellectual Disability (formerly “Mental Retardation”) | 11,326 | 10,167 | 9,328 | 8,373 |
| Developmental Delay | 6,143 | 6,781 | 7,060 | 7,139 |
| Emotional Disturbance | 3,778 | 3,833 | 3,702 | 3,609 |
| Autism | 2,794 | 3,362 | 4,019 | 4,595 |
| Multiple Disabilities | 1,916 | 1,947 | 2,098 | 2,167 |
| Hearing Impairment | 1,476 | 1,500 | 1,507 | 1,537 |
| Orthopedic/Physical Impairment | 989 | 952 | 894 | 864 |
| Visual Impairment | 800 | 746 | 783 | 746 |
| Traumatic Brain Injury | 274 | 289 | 309 | 277 |
| Deaf-Blindness | 5 | 3 | 3 | 4 |
| TOTAL | <u>120,122</u> | <u>120,263</u> | <u>120,925</u> | <u>118,425</u> |

Data Source: Annual federal December 1 Report of Children with Disabilities Receiving Special Education Under Part B of the Individuals with Disabilities Education Act as Amended.

**STATUS OF SERVICE FOR
STUDENTS WITH DISABILITIES
October 2006, 2007, 2008 & 2009
(Reported to State Chancery Court)**

CHILDREN WITH DISABILITIES

| | 2006 | 2007 | 2008 | 2009 |
|--|---------|---------|---------|---------|
| Receiving Appropriate Services | | | | |
| Receiving full special education/support services | 121,411 | 118,302 | 118,255 | 118,450 |
| Enrolled in private program at choice of parent and at parent's expense, with special education services provided by LEA | 635 | 642 | 739 | 803 |
| Receiving Less Than Appropriate Services | | | | |
| Receiving some special education, but less than recommended service | 9 | 9 | 10 | 8 |
| Enrolled in school, recommended for special education but not receiving any special education services | 110 | 117 | 108 | 109 |
| Not enrolled in any educational program | 138 | 121 | 116 | 123 |
| Children Suspected to Have Disabilities | | | | |
| Referred but not evaluated on October 1 | 3,754 | 3,687 | 3701 | 3,752 |
| Evaluated but not yet determined eligible/not eligible on October 1 | 1,816 | 1,791 | 1822 | 1,844 |

Note: These numbers are as of October 1, 2006 through 2009 and will not be the same as the End-of-Year figures.
Data Source: October Report for Chancery Court in the Case of Val Rainey vs. the Tennessee Department of Education.

PART THREE
MEETING MINUTES
Advisory Council for the Education of
Students with Disabilities
Approved Minutes

July 21, 2008
TPS Campus, Hardison Building
1256 Foster Avenue
Nashville, TN 37243

Members of the Council in Attendance

| | |
|----------------------|------------------|
| Winnie Forrester | Samuel Cole |
| Cynthia Higginbotham | David Blier |
| Kyle Hauth | Sebrena St. John |
| Fran Powers | Myles Wilson |
| Dawn Bradley | Beulah Oldham |
| Jim Topp | Janelle Glover |
| Mary Donnet Johnson | |

Members of the Council not in Attendance

| | |
|-----------------|----------------|
| Paula Brownyard | Jeff Finney |
| Pamela Burns | Darlene Walden |

State Employees in Attendance

Bob Blair, TN Department of Education/Division of Special Education (TDE/DSE)
Calvin Burden, TDE/DSE
Joseph Fisher, TDE/DSE
Kay Flowers, TDE/DSE
Jessica Harbison, TDE/DSE
Nan McKerley, TDE/DSE
Steve Sparks, TDE/DSE
Bill Wilson, TDE/DSE

Visitors in Attendance

Velvet Buehler, University of TN Department of Audiology & Speech Pathology
holly lu conant rees, Disability Coalition on Education
Susan Dalton, TN Education Association
Crystal Godwin, Parent and UT Center on Disability & Employment
Ashley Harkrider, University of TN Department of Audiology & Speech Pathology
Loria Richardson, The Arc of TN
Ned Solomon, Council on Developmental Disabilities
Walter Rogers, The Arc of TN

Welcome & Introduction

Dr. Topp called the meeting to order by having the Council members and guests recite the Pledge of Allegiance. Everyone in the room then introduced themselves.

Acceptance of Agenda

The agenda was accepted without comments.

Approval of Minutes from April 14, 2008 meeting

The minutes were also accepted as presented.

Report from the Chair

Dr. Topp presented the following points of interest:

- The US Department of Education Office of Special Education Programs (OSEP) will be conducting a verification visit with the TDE/DSE in September. Since the next Advisory Council meeting will be in October, they have requested to speak with the Council via a conference call. The agenda will be put on hold at 11 am CST and resume once the call is complete.
- Orientation for new Council members will be conducted October 20, 2008 prior to the regular Council meeting.
- Dr. Topp reminded all the members to make sure that their contact information on the TDE/DSE website is accurate.
- The TDE/DSE has announced the dates for their 2009 Annual Spring Conference. The conference will be held February 25, 26 & 27, 2009 in Nashville. More information will be posted on the TDE/DSE website as it becomes available.

Public Input

Dr. Ashley Harkrider and Velvet Buehler from the Department of Audiology and Speech Pathology (ASP) at the University of Tennessee (UT) in Knoxville presented facts regarding the work that the UT ASP does and the impact its closing will have on children and individuals in Tennessee. The university has recommended closing the UT ASP due to budget cutbacks. The Council voted to compose a letter in opposition to this decision which will be forwarded to the Governor, President of the University, Dean and Board of Trustees. Anyone who would like more information can go to <http://web.utk.edu/~aspweb/> or www.saveutasp.org.

Crystal Godwin, a parent and also from the UT Center on Disability and Employment, distributed a pamphlet to the Council members and guests. The Center works with 23 local education agencies on helping students transition to higher education using self-determination skills. The pamphlet describes what self-determination is and outlines ways they attempt to help students acquire these skills. For more information those interested can contact cde@tennessee.edu or go to www.cde.tennessee.edu.

Report on the SAP/ICC Panel Meeting of April 2008

Jeff Finney attended this as Council representative; however, Jeff was unable to attend today. His report will be moved to the October 20, 2008 agenda.

Approval of the Annual Report

The Minutes of the April 30, 2007 meeting will be added to Part Three. With no other corrections or additions suggested, a vote passed to approve the 2006-2007 Annual Report.

Once promulgated by the State printed copies will be distributed to the State Legislators, the Commissioner of Education, the State Board of Education and Council Members. It will also be made available to the public by request and on the TDE/DSE website.

State Intervention of Metro Schools

Due to scheduling restraints, Dr. Connie Smith was introduced early on the agenda to discuss with the Council the causes for the State Intervention of Metro Schools and the progress that has been made. This intervention occurred after the school district failed to meet Adequate Yearly Progress (AYP) for several years. With the help of the DSE and the Nashville Mayor's Office, the Department conducted a closer investigation and also found serious oversights regarding students receiving special education services, including suspensions without services, lack of inclusion and certain cases of students not being provided with books. The State has restructured and, in some cases, removed personnel at the administration and school levels; looked at career technical training; and even transportation issues. They are currently working from a "High Priority List" based on AYP data coming in now. Dr. Smith estimates it will take approximately three (3) to five (5) years to get the school district "back on track."

Report on the Caseload/Class Size Committee & Follow-up Report on Montgomery County classroom

Mary Donnet Johnson shared the findings and opinions of the Caseload/Class Size Committee that was formed as a result of the presentation given by a parent of a special education student in the Montgomery County School System at the April 2008 meeting. Kay Flowers, Complaint Investigator for the DSE, conducted an on-site visit as a follow-up to this presentation as well. The findings of the committee were inconclusive at this time and will need more data as well as a formal complaint to the DSE to begin that process. Mrs. Flowers did not see any violations by the school, district or teacher in this instance; however, she did recommend removing any unnecessary furniture from the room.

Discussion of Determination Letter Status

Joseph Fisher reported that the TDE/DSE received a response pertaining to our 2006-07 Annual Performance Report from the Office of Special Education Programs. OSEP had determined that after reviewing the 2006-07 Annual Performance Report, TN was placed in the category of "needs assistance". The two areas that TN requires improvement are Indicator 10 – *Disproportionate Representation in specific disability categories* and Indicator 12 – *Part B to C Transition*. Last year Tennessee was one of nine states that met all requirements. Data accuracy was one complication which the DSE is already working to correct.

DRAFT Special Education Manual

Nan McKerley presented the revised Special Education Manual which is still being revised and in draft form. Once completed, the Manual will be distributed to local education agencies (LEAs) as a training tool for educators. It will also be posted on the TDE/DSE website for the general public.

Legislative Update regarding Sunset Law for the Advisory Council

On July 7, 2008, Joseph Fisher, Bill Wilson and Bruce Opie, Legislative Liaison for the TDE, went before the Legislative Education Subcommittee for a review of the Advisory Council. This review takes place approximately every four (4) years. The decision was made to extend the Council's term for another six (6) years.

Department Update

There wasn't any new information to present.

Other New Business

The Council set a tentative meeting schedule as follows:

- * October 20, 2008
- * January 12, 2009
- * April 20, 2009
- * July 20, 2009

Dr. Topp then adjourned the meeting.

**Advisory Council for the Education of
Students with Disabilities
Approved Minutes**

October 20, 2008

**Andrew Johnson Tower, 1st Floor Conference Room
710 James Robertson Parkway
Nashville, TN 37243**

Members of the Council in Attendance

| | |
|----------------------|---------------------|
| David Blier | Mary Donnet Johnson |
| Paula Brownyard | Catherine Knowles |
| Samuel Cole | Beulah Oldham |
| Chip Fair | Sharmila Patel |
| Jeff Finney | Sebrena St. John |
| Winnie Forrester | Cindy Storey |
| Janelle Glover | Shannon Taylor |
| Kyle Hauth | Jim Topp |
| Cynthia Higginbotham | Darlene Walden |
| Pamela Hudson | Myles Wilson |

Members of the Council not in Attendance

| | |
|--------------|-------------|
| Dawn Bradley | Fran Powers |
| Pamela Burns | |

State Employees in Attendance

Sandra Albright, TN Department of Education/Division of Special Education (TDE/DSE)
Bob Blair, TDE/DSE
Steve Dugger, TN Department of Children's Services
Jessica Harbison, TDE/DSE
Steve Sparks, TDE/DSE
Bill Wilson, TDE/DSE
Joseph Woodson, Comptroller's Office

Visitors in Attendance

holly lu conant rees, Disability Coalition on Education
Susan Dalton, TN Education Association
Ned Solomon, Council on Developmental Disabilities
Walter Rogers, The Arc of TN
Mary Jane Ware, Vocational Rehabilitation

Welcome & Introduction

Dr. Topp called the meeting to order by having the Council members and guests recite the Pledge of Allegiance. Everyone in the room then introduced themselves.

Acceptance of Agenda

The agenda was accepted without comments.

Approval of Minutes from July 21, 2008 meeting

The minutes were accepted as presented.

Report from the Chair

Dr. Topp presented the following points of interest:

- Joseph Fisher is attending a conference for the National Association of State Directors of Special Education (NASDSE) in Kiawah Island, South Carolina and will be absent from today's meeting.
- An Orientation meeting was held this morning for anyone interested. Notebooks were distributed at the meeting and will be sent out as requested.
- All members, those recently appointed as well as those who have been serving, are reminded to verify the accuracy of the Council information on the Tennessee Department of Education, Division of Special Education (TDE/DSE) website, including the member's email addresses. The website can be found at:
<http://www.tennessee.gov/education/speced/advisory.shtml>
- The dates of the Special Education Annual Spring Conference have been announced. It will be held on February 25-27, 2009 at the Nashville Airport Marriott. Information regarding registration can be found on the web at:
<http://www.tennessee.gov/education/speced/seannounce.shtml>. New information will also be added at this address as it becomes available.
- Dr. Topp informed the Council about inquiries he has received from other stakeholders regarding Council meetings consistently being held in Nashville. Requests have been made to change the meeting locations so that the public could attend without traveling so far. After discussing several options, the Council decided it would be best for the Members if meetings were continued to be held in Nashville. However, Council Member David Blier, Information Technology Specialist with the TDE, volunteered to research alternatives which may allow for public input via the web.
- Dr. Topp also posed a suggestion to the Council that would amend the Council By-laws in order to hold elections for Chair and Vice-Chair every two years instead of the current annual elections. The issue will be deferred to the January meeting for further discussion and possible vote.

Public Input

None were present to address the Council at this meeting.

Election of the Chair and Vice-Chair

Due to the absence of Council Secretary, Joseph Fisher, Staff Attorney for the DSE, Bill Wilson conducted the election. Mr. Wilson first opened the floor to nominations for Chair. Paula Brownyard and Jim Topp were both nominated and, hearing no other nominations, each candidate was given an opportunity to address the Council. After which, a vote was taken by secret ballot and Paula Brownyard was named Council Chair.

Mr. Wilson then opened the floor to nominations for Vice-Chair. Cynthia Higginbotham was nominated and subsequently voted as Council Vice-Chair.

Kyle Hauth moved to send correspondence to Governor Bredesen in recognition of Jim Topp's and Jeff Finney's service to the Council. The motion was seconded and carried.

Report on the SAP/ICC Panel Meeting of April 2008

Jeff Finney attended the State Advisory Panel/Interagency Coordinating Council Panel Meeting in Mt. Pleasant, South Carolina as Council representative. It was a two-day meeting with other states in our region; therefore, Nan McKerley also attended as representative of the TDE/DSE and Rich Lewis for the Mid-South Regional Resource Center. Jeff reported it was an informative two days, during which Tennessee was mentioned several times in reference to its efforts to streamline procedures. A notebook of materials distributed at the meeting will be scanned and emailed to Council members for their information.

Update of OSEP Visit

Nan McKerley was scheduled to present but was unable to attend due to a family illness. Steve Sparks will include comments during the presentation of the Annual Performance Report (APR).

Comments on Letter Concerning the Audiology Department of UT Knoxville

The Council received copies of letters sent to the Governor and President of the University of Tennessee in Knoxville and the responses to these correspondences. Due to time restraints, all correspondences had been originally sent via email.

APR Indicators

Steve Sparks, along with other DSE staff, presented data in eight (8) of the Indicators areas of the Annual Performance Report (APR). These areas included: Parent Involvement, Disproportionate Representation in Special Education and in Specific Disability Categories, Child Find, Transition, and Dispute Resolution. The remaining Indicator areas will be presented at the next Council meeting, January 12, 2009.

Legislative Update on Proposed Rules PC 1063

Bill Wilson, Staff Attorney for the DSE, informed the Council of proposed guidelines and regulations regarding the use of isolation and restraints on students receiving special education services, which are currently being considered by the State Board of Education (SBE). The SBE plans to reconvene to discuss the issues further in January 2009.

Other New Business

The Council set a tentative meeting schedule as follows:

- * January 12, 2009
- * April 20, 2009
- * July 20, 2009
- * October 12, 2009

Dr. Topp then adjourned the meeting.

**Advisory Council for the Education of Students with Disabilities
Approved Minutes**

**January 12, 2009
Nashville Farmers Market
900 Rosa L. Parks Boulevard
Nashville, Tennessee 37208**

Members of the Council in Attendance

| | |
|----------------------------------|---------------------|
| David Blier | Mary Donnet Johnson |
| Dawn Bradley | Catherine Knowles |
| Paula Brownyard, Chair | Beulah C. Oldham |
| Samuel Cole | Sharmila Patel |
| Chip Fair | Sebrena St. John |
| Winnie Forrester | Cynthia Storey |
| Janelle Glover | Shannon Taylor |
| Cynthia Higginbotham, Vice-Chair | Jim Topp |
| Pam Hudson | Myles Wilson |

Members of the Council Not in Attendance

| | |
|--------------|----------------|
| Pamela Burns | Fran Powers |
| Jeff Finney | Darlene Walden |
| Kyle Hauth | |

State Employees in Attendance

| | |
|----------------|-------------------|
| Cara Alexander | Nan McKerley |
| Bob Blair | Ann Sanders-Eakes |
| Joseph Fisher | Steve Sparks |
| Kathy Strunk | Terry Wallis |
| Terry Long | Bill Wilson |

Visitors in Attendance

Loria Richardson, The Arc of Tennessee
Walter Rogers, The Arc of Tennessee
Susan Dalton, TN Education Association
Steven Glowicki, STEP, Inc.
Patrick Clemens, Recordings for the Blind and Dyslexic
John Richardson

Welcome

Ms. Paula Browyard welcomed everyone to the meeting and then called the meeting to order. She requested that the Council and guests recite the Pledge of Allegiance.

Acceptance of Agenda

The agenda was accepted as written.

Approval of Minutes from October 20, 2008 Meeting

Ms. Paula Browyard requested that the October 26 meeting be changed to October 12, 2009 in order for Mr. Fisher to be present. The minutes were approved with the change of date.

Report from Chair

- **Concerning Public Input** – There may have been some misunderstanding of this request from the last meeting. This is for the public to be able to have input and not travel to Nashville to speak. The Advisory Council members would still be expected to attend the meetings. David Blier reported that the cost for webcams would be several hundred dollars, the State has software for the set-up, and the additional expense would depend on the room rental which must have high speed internet. Jim Topp volunteered to locate a site in west TN, people who live in middle TN and want to give input would attend the Advisory Council meeting, and Cynthia Higginbotham volunteered to locate a site in east TN.
- **Concerning the Restraint Policy** – At the last meeting, an Ad hoc committee was formed composed of Cynthia Higginbotham as chair, Chip Fair, Samuel Cole and Fran Powers. Chip Fair made the following suggestions:
 1. Reviewing the new law (PC 1063) for all the things that are specifically required to be “determined by department rules”, I find one instance where the board has not specified something in the proposed rules that the law requires.

My suggestion for what the Advisory Council might consider submitting as a comment to address this is below:

Section 4 (b) (2) of PC 1063 requires the department rules to determine what constitutes “isolation or restraint over an extended period of time.” A suggestion for a rule addressing this:

Isolation or restraint over an extended period of time is determined to be isolation or restraint in excess of:

- (a) the amount of time indicated in the IEP, or
- (b) 2 hours for ages 9-21 and 1 hour for ages under 9, whichever is greater.

If isolation or restraint is used over an extended period of time as defined above then an individual education program meeting shall be convened within ten (10) days following the use of such isolation or restraint.

(The amount of time above is from the Middle TN Mental Health Institute policies.)

2. One of the proposed rules, I feel needs to be clarified.

0520-1-9-.005. (proposed department rule) reads as follows:

“Noxious substance” means painful stimuli, which are employed to reduce the frequency of or to eliminate problem behaviors.

I feel that this should be clarified to read as follows:

“Noxious substance” means **any substance producing** painful stimuli, which are employed to reduce the frequency of or to eliminate problem behaviors.

The reason for the suggested clarification is that “painful stimuli” as used in the proposed rules is overly broad and could be many things besides substances, even a “sound” and a sound is not a “noxious substance”, so the definition of a “noxious substance” should not be so broad as to effectively include “any” painful stimuli, but should be limited to “**any substance producing** painful stimuli.”

The State Board of Education will meet on January 30, 2009 for the 1st Reading. Ms. Brownyard asked Bill Wilson to send the first reading proposal to all Council members immediately after that meeting. Council members should email their comments to Cynthia Higginbotham no later than February 20th. At that time, Chip Fair, Samuel Cole, Fran Powers and Cynthia Higginbotham will read all the comments. The Ad Hoc committee will then make a recommendation to the Council. The 2nd reading will be held on April 17, 2009. The Council should respond before that meeting; or it would probably be too late to include any recommended change before the final reading.

- **Concerning Council Questions** - Mr. Topp has agreed to arrive 1/2 hour before each meeting for new members as well as old members to ask questions concerning the council, clarify agenda items, etc. as they arise. The Advisory Council meeting should probably be changed to 10:15 to accommodate this session.

Pubic Input

No one was present to address the Council at this meeting.

TN Unit for Recordings for the Blind and Dyslexic

Patrick Clemens, Unit Director for the TN Unit of the Recording for the Blind and Dyslexic (RB&D) talked to the Council. Currently RB&D are in 72 TN. counties and would like to be in all 95. In the past, their representative has gone from school to school with books on CD. Mr. Clemens would like to pair with the State to get this information out to all of the counties and special education teachers. As we are all aware, teachers are overwhelmed with the time it takes to train on new equipment and to teach. Therefore, even though RB&D will continue CD units for those who need them, most books are now through the internet from RFB&D. Mr. Clemens will be at the Special Education Conference to talk to the supervisors and teachers. He can be reached at (615) 351-3298 and/or pClemens@rfd.org.

Proposed Change to the Advisory Council By-laws

Mr. Topp requested a change in the by-laws in order to use time more efficiently. In Section IV, paragraph 1, he has asked that the term for the Chair and Vice-Chair be extended from one year to two years. He stated that since the Council meets only four times per year, having the election once every two years would provide more time for other business. This change if approved would start in October, 2009. Ms. Brownyard asked that the proposal from Mr. Topp be emailed to all of the Advisory Council members for future discussion and vote at the next meeting

APR Indicators

Steve Sparks handed out the packet to the members of the Advisory Council and interested audience. He said that two indicators would not be reviewed today. Indicator 6 was presented at the last (October 20) meeting and Indicator 7 was not going to be reported this year in the APR. In addition, the Division has not received the OSEP monitoring report from their October visit which they said we would receive around Christmas.

Indicator 1 Graduation – Bob Blair reported that the state had a graduation increase of 4%. Therefore the state target was met and exceeded. Next year's incoming freshman will be on a new graduation track system. Jim Topp asked "What do you think will happen with the upcoming percentage trend in the next year with new graduation requirements?" Steve Sparks stated that the percentage would probably go down. At that time we would need to provide an explanation. Joe Fisher stated: "The state board said there would be a drop for all but hopefully over time the numbers would increase again. The drop is because of the new stringency of requirements and the new diploma requirements." Alternative performance based assessments will be available for students with disabilities who fail to pass End-of-Course tests. Nine EOC tests will be phased in, with three available during the 2009-2010 school year.

Indicator 2 Drop-out – Bob Blair reported that the state had a 0.4% increase; the target was not met. Terry Long stated that all LEAs were either on Easy Census or Easy IEP so the state could now receive much more accurate information from LEAs concerning students.

Mr. Fisher said: "Inclusion activities should have been included in both Indicator 1 and Indicator 2 and would like to see this added. Over time this has made and will make a great impact."

Indicator 3- Statewide Assessment - Terry Wallis reported on APR 3, Section A and stated the data required for reporting on sections B, C, and D had not been delivered from the Division of Assessment, Evaluation, and Research. Thus, for FFY07: Section A, twenty-six of 46 school districts (56.5%, an increase) met the minimum n size for disability subgroup in all areas measured, whereas 20 of the 46 districts (43.5%, a decrease) did not meet AYP for SWD subgroup. Tennessee did not reach its target of 70.5% however; a 5.4% increase represents progress from FFY06.

Tennessee was awarded a grant from Office of Special Education Programs (OSEP) for the identification of students with disabilities who would be eligible to take an Alternate Assessment based on Modified Academic Achievement Standards (AA-MAAS) and subsequently develop an assessment suitable for roughly 2% of the total student population. Tennessee and four other states (i.e., South Dakota, Alabama, Hawaii, and Minnesota) formed a consortium guided by Martha Thurlow, the Director of the National Center for Educational Outcomes (NCEO) to fulfill this arduous task. The AA-MAAS is for students who have an IEP and are on a regular diploma track, yet consistently underachieve on State mandated achievement assessments. Tennessee's version of the AA-MAAS will be piloted this spring and will be operational for FFY08.

Indicator 4 – Suspension Expulsion – Cara Alexander reported out for Marti Sparks. The state did not meet target. One way we are addressing this is through the Letter of Determination, sent to LEAs in December, 2008. Indicators 4, 9 and 10 were addressed in the Letter. LEAs with less than 1% discrepancy were categorized as Met Requirements (98 LEAs); thirty-five (35) LEAs as Need Assistance (1-4% discrepancy), and three (3) LEAs as Need Intervention (>4% - <7% discrepancy). No LEAs were categorized as Needs Substantial Intervention (>7%). LEAs categorized as Needs Assistance or Needs Intervention will have technical assistance/recommendations for improvement, mandatory sessions at the Annual Conference and Needs Intervention will develop a Corrective Action Plan. We met with LEAs in August, 2008 to answer questions and explain the process/Letter. On-Site Monitoring is conducted every 4 years and all LEAs have a profile completed annually based on Report Card data, EasyIEP Reports, compilation of complaints, mediations and due process hearings.

Mr. Fisher stated that many LEAs suspend students and then send students to alternative schools instead of keeping them in school. Pam Hudson said that in Hamilton Co. many principals are hired from Georgia and their suspension policy is very different from Tennessee's. Hamilton County principals are being trained this year on suspension/expulsion and alternatives in Tennessee. Chip Fair clarification: "We are looking at suspension/expulsion with services for children with disabilities – correct?"

Mr. Fisher responded by saying: “Correct but we want them to look at **how** they can keep children in school and not use the 10 days and then suspend them. As clarification, this is not an IEP decision; students who have used up their 10 days and have been suspended.”

Indicator 5 – LRE Placement: The target was met and exceeded for a; b and c were met. Terry Long believed the improvement was due to improved data clean-up. In addition, consultants providing technical assistance and working with systems and monitoring the systems has helped. For new systems in Easy IEP, there is a misconception of funding as well as the setting. Services reflected often show them in special education setting and not in the regular classroom. SPED is a service and NOT a place.

Indicator 15 – Monitoring: Steve Sparks gave the general overview of the indicator. This is a compliance indicator so the target is 100%; we had 73%.

Indicator 20 – Timelines & Accuracy of Data & Reports: Terry Long spoke to the accuracy of the data and data reports. This is a compliance indicator therefore the criteria is 100%. The federal government is changing the way they want data submitted. In addition to the table format data is also submitted in an EDEN (Educational Data Exchange Network) format to EdFacts. There were two (2) files that were submitted one day late. They were new files and there was trouble with the formatting. Steve Sparks for the accuracy of reports within timelines brought everyone’s attention to the graph with timelines.

Beulah Oldham asked if federal money is withheld if the APR is late. Nan McKerley replied “No, but if the state is late two days, then OSEP may withhold the response to the APR for two days. However, tardiness to submit the State Application by its’ due date will hold up federal money.” Sam Cole asked how long data, records concerning financial information, etc. was held. Nan McKerley responded that for financial transactions it was three years after the end of the award year for which the aid was awarded and disbursed (34 CFR 668.24(e)(1)). The APR can be located at: <http://www.tennessee.gov/education/speced/sereports.shtml>.

Disproportionality: Kathy Strunk stated that there were two different ways to look at disproportionality: (1) ‘Disproportionate Representation’ and (2) Significant Disproportionality. She stated she was very proud of the disproportionality work group to clarify the criteria for each and then presented Ann Sanders-Eakes to the group.

Ann Sanders-Eakes provided two flowcharts to the Council which represent pictorially and descriptively the FFY08 proposed criteria for ‘Disproportionate Representation’ (DR) with over- and underrepresentation and for ‘Significant Disproportionality’ (SD). She also explained the State had been in close contact with OSEP since the September 2008 visit and OSEP had approved the proposed criteria. Additionally, the proposed criteria were shared with a representative group of supervisors at the TAASE Conference in December 2008 and received unanimous support from this group.

The characteristics for DR are: (1) relates to Indicators 9 & 10 (Annual Performance Report) with a required State target of 0%; (2) considers both overrepresentation and underrepresentation; (3) the definition is determined by States for children receiving special education and related services – Indicator 9 – and children identified in the six high incidence disabilities – Indicator 10; (4) uses monitoring data and self-assessment to review the district’s policies, practices and procedures to determine if the disproportionate representation is the result of inappropriate identification; and (5) requires a corrective action plan when the result of monitoring and self-assessment is inappropriate identification.

The proposed criteria for DR (Overrepresentation) for FFY08 data are: (1) the racial/ethnic sub-group examined is $\geq 5\%$ of district’s total enrollment, (2) there must be at least 45 students identified with the disability examined in that LEA, (3) there is a relative risk ratio (comparing the student sub-group with other student sub-groups in that LEA) and a weighted risk ratio (comparing the student sub-group with other student sub-groups across the State) of ≥ 3.0

The proposed criteria for DR (Underrepresentation) for FFY08 data is: (1) the racial/ethnic sub-group examined is $\geq 5\%$ of district’s total enrollment, (2) there must be at least 45 students identified with the disability examined in that LEA, (3) there is a relative risk ratio (comparing the student sub-group with other student sub-groups in that LEA) and a weighted risk ratio (comparing the student sub-group with other student sub-groups across the State) of ≤ 3 .

The characteristics for SD are: (1) is based on identification, placement, or disciplinary actions; (2) triggered solely by a numerical examination of data and analysis on overidentification only; (3) the State defines Significant Disproportionality for children receiving special education and related services and for children identified with disabilities in the six high incidence disability categories; (4) provides for the review (and, if appropriate) revision of the district’s policies, practices, & procedures in the identified disproportionate disability area; and (5) identified LEAs to reserve 15% of Part B funds for Comprehensive Early Intervening Services. Since the 2004-2005 school year, Tennessee has examined data related to the identification of students with disabilities. Tennessee will be including both ‘Placement’ and ‘Discipline’ disproportionality data examination and definition within the next two school years. ‘Placement’ baseline data is being collected this year (FFY08) and SD will be defined and determined with FFY09 data. Current definitions for ‘Discipline’ as used for data entry across the State are extremely ambiguous. In order to ensure ‘clean’ data that will be used for the determination of SD in ‘Discipline’, it is necessary that all LEAs use consistent definitions for ‘Discipline’ at all times. In FFY08, Tennessee will work with a task group to develop a consistent definition for Discipline after which there will be training for data entry personnel across the State. The baseline data for ‘Discipline’ will be established with FFY09 data. Based on this baseline data, the definition and implementation of ‘Discipline’ for purpose of determining Significant Disproportionality will be made in the 2010-2011 school year with FFY10 data.

The proposed criteria for SD for FFY08 data is: (1) the racial/ethnic sub-group examined is $\geq 15\%$ to $\leq 85\%$ of district's total enrollment, (2) there must be at least 45 students identified with the disability examined in that LEA, (3) there is a relative risk ratio (comparing the student sub-group with other student sub-groups in that LEA) and a weighted risk ratio (comparing the student sub-group with other student sub-groups across the State) of ≥ 4.0 .

Sam Cole: "Fifteen (15%) will come from their IDEA Part B funds, is that correct?" Ann Sanders yes that is correct and they will work with Kathi Rowe and the Management Consultants. Sam Cole: "Is this a federal requirement?" Ann Sanders: "Yes." Sam Cole: "If they are not doing what they need doesn't this hurt the district?" Joseph Fisher: "The money is not being taken away from the district it is being shifted. This money is being shifted to the general education population to work with general education students and those not identified as special education. RTI is to keep children from being identified as special education when appropriate."

Disproportionate Representation (2 b) Indicators 9 & 10 is a compliance indicator. Over- or under- representation is not required based on disproportionate representation to allocate funding; however, they are required to do a self assessment which helps them identify the "holes" and helps close the gap. No LEAs were found to have disproportionate representation due to inappropriate identification. In 2007-08m 14 LEAs had to do a self assessment for overrepresentation. For 2007-08, 19 districts had to do a self-assessment for underrepresentation; which is four more than the previous year. Paula Brownyard asked what the process was when LEAs are identified. Ann Sanders stated that the self-assessment is on the web for LEAs to download and complete, then the Disproportionate Representation task force group rates the self- assessment. If the score is less than adequate, the LEA must write a plan of improvement and submit it to the State. This Improvement Plan becomes a public document and can also be included with the LEA's TCSPP (TN Comprehensive Systemwide Planning Process). Paula Brownyard: "What about the Hispanic population which is growing across the state?" Ann Sanders replied that an ESL (English as a Second Language) manual is in the works. The Division of Special Education has been working with the ESL office within the Division of Teaching and Learning to produce the manual. We also have updated information in the Special Education manual for ESL.

Other New Business

1. Pam Hudson – I have heard that with state budget cuts the state may not be using Easy Student or Easy IEP or Star Student. Joseph Fisher: Well it is on the list. SSMS includes Easy IEP but not Easy Census. Hopefully we can amend the Easy Census contract and roll the Easy IEP into it and keep it. If we can't keep it, LEAs can contract with a company but data would not be clean. Pam Hudson: LEAs need to know as soon as possible if they are going to have to find money to buy a program. All LEAs are being asked to cut wherever possible due to the county budget and state forecast. A motion by Chip Fair was made to submit a statement. Paula Brownyard encouraged all members and interested parties to contact their legislators.

2. The Special Education Annual Spring Conference will be held February 25-27, 2009 at the Nashville Airport Marriott.
3. Please turn in your expense accounts before you leave.
4. Mr. Fisher presented Dr. Jim Topp with a Certificate of Recognition for the leadership he has shown for the past 15 years getting to the meetings through rain, sleet and snow.
5. The Council set a tentative meeting schedule as follows:
 - April 20, 2009
 - July 20, 2009
 - October 12, 2009
 - January 11, 2010

Ms. Paula Brownyard then adjourned the meeting.

**Advisory Council for the Education of Students with Disabilities
Proposed Minutes**

**April 20, 2009
1256 Foster Avenue
TPS Campus, Hardison Hall
Nashville, Tennessee 37243**

Members of the Council in Attendance

David Blier
Dawn Bradley
Paula Brownyard, Chair
Christine Lloyd Burkes
Samuel Cole
Chip Fair
Jeff Finney
Winnie Forrester
Kyle Hauth
Cynthia Higginbotham, Vice-Chair

Pam Hudson
Mary Donnet Johnson
Catherine Knowles
Beulah C. Oldham
Sharmila Patel
Fran Powers
Sebrena St. John
Darlene Walden
Myles Wilson

Members of the Council Not in Attendance

Pamela Burns
Janelle Glover
Cindy Storey

Shannon Taylor
Jim Topp
Tonya Watson

State Employees in Attendance

Bob Blair, TN Department of Education/Division of Special Education (TDE/DSE)
Joseph Fisher, TDE/DSE
Jessica Harbison, TDE/DSE
Nathan Jackson, TDE/DSE
Kathi Rowe, TDE/DSE
Bill Wilson, TDE/DSE
Nan McKerley, TDE/DSE

Visitors in Attendance

Rick Wharton

Welcome

Paula Browyard welcomed everyone to the meeting and then called the meeting to order. She requested that the Council and guests recite the Pledge of Allegiance.

Acceptance of Agenda

The agenda was accepted with one change. Public Input was moved forward to include committee input in the Report from the Chair.

Approval of Minutes from January 12, 2009 Meeting

The minutes were accepted as presented.

Public Input

No one was present to address the Council at this meeting.

Report from Chair

- **2009 Annual Special Education Conference** – Paula Browyard congratulated the Division of Special Education (DSE) staff for another successful conference, commenting it may have been the best one so far.
- **Regional Video Conferencing** – David Blier, an employee with the Department of Education (DOE) Office of Technology, researched options for regional video conferencing and found that it would cost the Department approximately \$1200 annually. The logistics of advertising and participation issues were discussed. The Council then voted to pilot in three (3) regional locations – East, Middle and West – for one (1) year. David Blier and Kyle Hauth volunteered to form a committee to work on setting up these pilots.
- **Restraint Bill Committee** – Cynthia Higginbotham, Subcommittee Chair, presented the following proposed changes:

The proposed state rules regarding the restraint law (PC 1063) defines extended restraint as, "Extended restraint means a physical holding restraint lasting longer than five (5) minutes." The Advisory Council recommendation states, "Extended restraint means a physical holding restraint lasting longer than (5) minutes, or longer than the amount of time indicated in the IEP, whichever is greater."

Encourage school systems to address the need for restraint, de-escalation and behavior management training within the local education agency.

Add the language "A meeting conducted pursuant to 49-10-1304 (b)(2) may be conducted on at least twenty-four (24) hours notice to the parents." This language would allow school systems to conduct an IEP meeting without waiting the 10 day notice period required currently by regulation law.

The Council voted to accept the proposed suggestions as presented. The State Board of Education is scheduled to discuss this topic at a meeting on May 2, 2009 with a second reading in August. A letter from the Council will be drafted and sent prior to this meeting.

Proposed Change to the Advisory Council By-laws

Mr. Topp had requested at a previous meeting a change in the by-laws in order to use time more efficiently. In Section IV, paragraph 1, he has asked that the term for the Chair and Vice-Chair be extended from one year to two years. Dr. Topp emailed his proposal to all of the Advisory Council members for future discussion and vote at this meeting; however, Dr. Topp was unable to attend this meeting so the issue will be tabled until the July 2009 meeting.

Annual Report

Cynthia Higginbotham assumed the responsibility of reporting the Council activities for the 2007-08 school year. A draft report will be sent to the Council members for them to vote on in July. Pam Hudson, Jeff Finney, and Sabrina St. John volunteered to work on the Council Goals for the next two school years.

ARRA

Joseph Fisher, Nan McKerley and Kathi Rowe presented information regarding the ARRA funds that have been dispersed to each state and how that money will be distributed to the local school districts.

Other New Business

- Pam Hudson noted that Special Education students scheduled to receive Special Education diplomas do not currently count toward a school district's graduation rate and asked how they are counted. Nan McKerley answered that this is due to federal reporting requirements and is not something the State can control. Joseph Fisher added that states can petition to have this changed, although other states that have tried have been unsuccessful. The DSE staff will request that Connie Smith, Assistant Commissioner of School Accountability, attend the July 2009 meeting to help discuss this issue in greater detail.
- The Council set a tentative meeting schedule as follows:
 - July 20, 2009
 - October 12, 2009
 - January 11, 2010
 - April 2010 TBD

Paula Brownyard then adjourned the meeting.

ADVISORY COUNCIL MEMBERS

| | |
|----------------------------------|--------------|
| James Topp, Chair | Germantown |
| Paula Brownyard, Chair | Jackson |
| Jeff Finney, Vice-Chair | Elizabethton |
| Cynthia Higginbotham, Vice-Chair | Knoxville |
| David Blier | Nashville |
| Dawn Bradley | Lebanon |
| Pam Burns | Nashville |
| Samuel Cole | Nashville |
| Chip Fair | Manchester |
| Winnie Forrester | Nashville |
| Janelle Glover | Nashville |
| Kyle Hauth | Chattanooga |
| Pamela Hudson | Chattanooga |
| Mary Donnet Johnson | Knoxville |
| Catherine Knowles | Nashville |
| Christene Lloyd-Burkes | Memphis |
| Beulah Oldham | Clarksville |
| Sharmila Patel | Nashville |
| Fran Powers | Clarksville |
| Sebrena St. John | Limestone |
| Cynthia Storey | Chattanooga |
| Shannon Taylor | Lexington |
| Darlene Walden | Denmark |
| Tonya Watson | Memphis |
| Myles Wilson | Somerville |

State of Tennessee
Phil Bredesen, Governor

Department of Education
Timothy K. Webb, Commissioner

Division of Special Education
Joseph E. Fisher, Assistant Commissioner

Advisory Council for the Education of Students with Disabilities
James Topp, Chair (Prior to October 2008)
Paula Brownyard, Chair (As of October 2008)

Division Assistance to Council
Nan McKerley