**Bureau of Special Education Appeals (BSEA) Advisory Council**

**Monday, October 31, 2022, 10:00am-12:0pm**

**Hybrid Meeting**

**MINUTES**

**Attendance:**

*council Members*: Kate Lipper-Garabedian, Alyndra Canty, Michael Long, Pamela Nourse, Carla Jentz, Ruth Diaz, Stefanie Krantz, Janine Solomon

*Invited Guests*: Reece Erlichman, Myrto Flessas, and Marguerite Mitchell (BSEA); Russell Johnston and Jamie Camacho (DESE); Edward McGrath (Administrative Law Appeals)

**Agenda:**

1. Introduction of Members
2. Public Comment
3. Charge of Board/Background of Public Records and Open Meeting Laws
4. BSEA and DESE Presentations
5. Open Discussion
6. Future Meetings (Quarterly)

**I. Introduction of Members**

*Co-Chairs Kate Lipper-Garabedian and Alyndra Canty begin meeting at 10:08am.*

KLG: State Representative since March 2020. Melrose, Wakefield, Malden. Previous professional role as Chief Legal Counsel at Executive Office of Education.

Alyndra Canty: Behavioral analyst in MA. Former special education teacher in Florida.

Michael Long: Counsel for MA School Superintendents.

Pamela Nourse: Chair of the Minuteman Regional Tech School Committee; Executive Director of Federation for Children with Special Needs

Carla Jentz: MA Administrators of Special Education

Ruth Diaz: Training Center, Federation for Special Needs. Practicing Attorney, HLS Clinical Programs – Harvard Law

Stefanie Krantz: Senior Attorney at the Disability Law Center.

Janine Solomon: Managing Attorney at Massachusetts Advocates for Children. Previously at the Disability Law Center.

**II. Public Comment**

An external participant was identified. She explained she raised her hand accidentally.

**III. Charge of Board and Background of Public RecordS/Open Meeting LawS**

Chair Lipper-Garabedian provided an overview of the mission of the Council, referring to and summarizing Massachusetts general law c. 71B, § 2A(e). The Council is charged with providing advice and feedback regarding the BSEA’s performance.

Co-chairs Lipper-Garabedian and Canty reviewed the public records law. They noted that an email account has been created to conduct Council business and to serve as a repository for records.

The Co-chairs explained open meeting law requires that meetings are public and no off-the-record chatter on substantive matters should occur among a quorum of members. Chair Canty expressed that she circulated guidance to members, and all have confirmed their receipt.

**IV.** **BSEA & DESE Presentations**

DESE: Jamie Camacho ran the presentation. She described and defined key terms including general supervision, its eight critical components, and examples of general supervision of the due process system. General Supervision can be defined as ensuring cohesion between eight separate yet interconnected components. The eight critical components are Fiscal Management, Integrated Monitoring, Sustaining Compliance and Improvement, Implementation of Policies and Procedures, Technical Assistance and Professional Development, Dispute Resolution, Data, SPP/APR. Examples of General Supervision of the Due Process System are implementation of due process hearing decisions and collecting and reporting on certain data from BSEA about dispute resolution.

BSEA: Reece Erlichman ran the presentation on behalf of the BSEA, describing the nature of the agency, its functions, and its relationship with DESE (never has felt any pressure by DESE, DESE serves as a compliance mechanism). The BSEA generates weekly reports regarding cases and provides information to DESE; this is important as the law requires that DESE’s PRS set aside any complaint it receives if a parent simultaneously files a complaint with BSEA until BSEA has completed its process. BSEA provides annual state and federal reporting data.

Ms. Erlichman reviewed data on rejected IEPs, facilitated IEP team meetings, mediation, due process hearings, and settlement conferences.

* Rejected IEPs: There are approximately 12,000 IEP complaints, out of roughly 170,000 students with IEPs in the Commonwealth.
* Facilitated IEP team meetings: BSEA conducted 186. The BSEA does not have dedicated staff for these meetings.
* Mediation: BSEA mediators conducted 588 mediations in FY22. Both parties must consent. BSEA does not keep formal data on participant demographics and representation status. In FY23, quarter 1, BSEA saw an ~85% agreement rate. Participants receive a [survey from BSEA](https://docs.google.com/spreadsheets/d/1sSm3vIj2zR8So7YBh6ebSr9AS-XcMXnSdMVrboEkVZE/edit?usp=sharing) 6 weeks after the mediation.
* Due process hearings: In most recent year, due process hearings decreased to 14; of these, parents completely prevailed in 4 cases (two had counsel and two were pro se); districts completely prevailed in 9 (eight parents had counsel and one was pro se); and mixed relief was provided in 1.
* Settlement conferences: BSEA has held 47 for cases filed for hearing in FY22; 40 have settled. The BSEA has four criteria for settlement conferences: (1) case has been filed for hearing; (2) the hearing officer who has been assigned has seen the issues and thinks the settlement conference would be valuable; (3) both parties participate voluntarily; (4) it has evolved to the point that both parties are represented by counsel; counsel has been required to ensure informed consent.

*\*Brief Break from 11:10-11:20am\**

**V. Open Discussion**

Council members engaged in a discussion regarding presentation materials. Prevalent themes included the lack of demographic data available and collected regarding students and families interfacing with the BSEA. The Council also discussed accessibility issues, including with respect to translation, as well as training and outreach materials and opportunities.

Attorney Long observed that a review of case statistics might suggest to some that school districts prevail far more often than not at BSEA hearings, when his anecdotal evidence from discussion with attorneys representing districts and administrators over the years is that districts settle many meritorious cases because they do not believe BSEA provides districts a level playing field.

**VI. FUTURE MEETINGS**

The Council Members and the Co-Chairs indicated they would like to focus of the following topics during the next meeting: data, demographics, trainings/outreach to greater community, barriers to access).

*Meeting adjourned at 11:58am.*