



**Old Business**

certificate through the 2023-2024 school year after extensive and documented recruitment. Public comments on the proposal can be submitted to [oheregcomments@nysed.gov](mailto:oheregcomments@nysed.gov) through July 31, 2023.

**[Proposed Amendment of Section 80-5.4 of the Regulations of the Commissioner of Education Relating to the Employment of Substitute Teachers](#)**

NYSED proposed a regulatory amendment to the Commissioner’s regulations to remove the end date for the provision that has been in effect since July 27, 2016 to permit substitute teachers to be employed by a school district or boards of cooperative educational services (BOCES) beyond the 40-day limit during a school year under certain conditions. Public comments on the proposals can be submitted to [oheregcomments@nysed.gov](mailto:oheregcomments@nysed.gov) through July 31, 2023.

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The comment period will run from May 3 to July 10, 2023. In accordance with the Individuals with Disabilities Education Act, NYSED will also be conducting [two public hearings on July 5, 2023](#), one in person and virtually and one virtually only. Following the public comment period, it is anticipated that the proposed amendment will be presented to the Board for permanent adoption at the July 2023 meeting. If adopted at the July 2023 meeting, the proposed amendment will become effective as a permanent rule on August 2, 2023.

### **CAP Public Comment on Proposed Amendments**

CAP members discussed the proposed amendments relating to incidental teaching, substitute teachers and the prohibition of corporal punishment, aversive interventions, prone restraint and seclusion and permitted use of timeout and restraint and unanimously supported CAP submitting public comment on the proposals.

### **Target Setting for State Performance Plan (SPP) Indicator 15, Resolution Sessions**

Tracy Davidson, Jay Kallner and Michael Treffiletti from OSE's Due Process Unit presented information on SPP Indicator 15: Resolution Sessions and sought member feedback on resetting the baseline and targets for this indicator based on a change in the calculation of the data. Members received background information on:

- resolution sessions, which are an opportunity for the parent(s) and school district representatives to discuss a due process complaint (disagreement on a special education matter) and to reach a possible agreement before an impartial hearing takes place;
- NYSED's previous, current and proposed data collection practices and calculation for SPP Indicator 15; and
- SPP Indicator 15 data from federal fiscal year 2006 to

On December 1, 2021, NYSED and the NYCDOE entered into a Memorandum of Agreement (MOA) with NYC's Office of Administrative Trials and Hearings (OATH) to establish an administrative team of full-time impartial hearing officers (IHOs) to effectively manage NYCDOE's current due process caseload. The parties agreed that handling of the special education impartial hearing system would be transferred to OATH in order to facilitate the effective management of current and future due process compliant filings. The parties recognized the need to establish an appropriate transition period during which both current IHOs (per-diem independent contractors) and OATH IHOs will conduct impartial hearings. The transition period is ongoing. To date, OATH has hired 43 attorneys who are certified and trained by NYSED to be IHOs, in addition to settlement officers and administrative staff. NYSED has since trained 16 additional OATH IHOs to be certified IHOs. In addition, the MOA indicates that NYSED will take steps to propose amendments to the Commissioner's regulations to support the use of IHOs hired by OATH and the ability of OATH to assign cases to its IHOs as OATH deems appropriate.

At its January 2023 meeting, the Board of Regents adopted as an emergency rule proposed amendments to 200.5(p) and 200.1(x), effective January 25, 2023, to immediately permit OATH to promulgate regulations related to special education due process hearings to promote the efficient resolution of due process complaints. The proposed amendment required that OATH must ensure that all proposed regulations are consistent with state and federal laws and regulations. Additionally, the Department proposed to amend the definition of "impartial hearing officer" to contemplate IHOs employed by OATH. Following public comment, at the May Board of Regents 2023 meeting, the proposed rule was adopted as a permanent rule, effective May 31, 2023.

#### [Proposed Amendment of Section 200.5 of the Regulations of the Commissioner of Education](#)

## **Updates from New York State Agency Representation on CAP**

The following CAP members representing State agencies provided updates on initiatives relating to children with disabilities and their families:

Natasha Bermudez, from the New York State (NYS) [Office of Mental Health \(OMH\)](#), shared the following new initiatives related to supporting mental health services for youth:

- New York State's fiscal year 2024 Executive Budget includes 30 million dollars to expand mental health services for school-aged children throughout the State and implement wraparound services training.
- Expansion of Peer Services to help build the credentials for Peer Specialists/Advocates, or individuals who utilize their lived experience and expertise of resilience and recovery with others in their work.
- Establishment of a Trauma-Informed Network and Resource Center to provide support for schools.

CAP members were encouraged to reach out to Ms. Bermudez for assistance in accessing regional OMH services for their constituencies or to sign up for the [OMH Newsletter](#).

Alexis Harrington, from the NYS [Office for People with Developmental Disabilities](#) provided information about the [National Expansion of Employment Opportunities Network \(NEON\) Initiative Grant](#), a new cross agency collaboration with OMH, the Department of Labor, NYSED and NYSED's Adult Career and Continuing Education Services-Vocational Rehabilitation to increase competitive integrated employment opportunities for people with disabilities, including those with developmental disabilities.

Raymond Pierce, from the NYS [Department of Health, Bureau of Early Intervention \(EI\)](#), informed CAP members that there are ongoing events and campaigns to recruit providers and increase the EI workforce. A rate increase for providers was originally proposed in the State budget and has been reintroduced as a separate legislative bill.

## **Member Sharing of Information and Unmet Needs:**

Members reviewed and discussed the following unmet needs identified at the November 2022 and March 2023 CAP meetings:

- Transition planning for youth and support for vocational goals;
- Transition for PreK-age 21: critical steps;
- Parent education;
- Supports for students with disabilities who are English language learners;
- Individualized planning for all students including daily living skills;
- Staff shortages - including recruiting and retaining certified educators and shortages of preschool providers (i.e., related services); and
- Mental health supports.

The members were asked to consider the topic of transition planning as a focus in 2023-2024.

Discussion highlights included:

- Transition planning should begin earlier and occur Prekindergarten to age 21 to set students up for success.
- Guidance is needed to assist programs in understanding student needs at key transition stages (e.g., committee on preschool special education to committee on special education; elementary to middle school, middle school to high school, and high school to post-secondary transitions)
- Transition to post-secondary life for students with significant disabilities needs to be seamless to ensure that youth with disabilities have the supports and therapies they need after leaving school. Information is needed on students who are enrolled in Career and Technical Education (CTE) and

participating in work-based learning (WBL) (e.g., What is the data on the participation of students with disabilities in CTE programs and how are schools using WBL? and What supports do students need to be successful?).

- The importance of meeting students' current needs and planning for supports to build future independence (e.g., consideration of one-to-one aides, therapies and supports versus programs).

### **CAP Annual Report for 2022-2023**