

**SPECIAL EDUCATION ADVISORY COUNCIL**

**Minutes – September 9, 2022**

**9:00 a.m. – 12:00 p.m.**

**PRESENT:** Deborah Cheeseman, Mark Disher, Lisa Garcia, Mai Hall, Melissa Harper Osai, Melissa Johnson, Amanda Kaahanui (staff), Tina King, Jennifer Leoiki-Drino, Cheryl Matthews, Paul Meng, Wendy Nakasone-Kalani, Kiele Pennington, Carrie Pisciotto, Susan Rocco (staff), Roxanne Rokero (liaison to the Superintendent), Rosie Rowe, Debora Uyeda, Steven Vannatta, Lisa Vegas, Jasmine Williams, Susan Wood

**EXCUSED:** Sara Alimoot, Martha Guinan, Ivalee Sinclair

**ABSENT:** Virginia Berenger, Annette Cooper, Shana Cruz, Kerry Iwashita, Dale Matsuura, Theresa Minami, Kau‘i Rezentes, Paula Whitaker

**GUESTS:** Richard Billingsley, Willie Cadena, Verna Chinen, Chad Domingo, Patti Dong, Linda Elento, Sandy Jessmon, Leilani Kailiawa, Annie Kalama, Lori Morimoto, Theresa Sanchez, Drew Saranillio, Brikena White

<b>TOPIC</b>	<b>DISCUSSION/ACTION</b>
<b>Call to Order/Welcome</b>	At 9:10 a.m. Steven Vannatta welcomed members and guests on behalf of Chair Martha Guinan who was unable to attend and Vice Chair Susan Wood whose arrival is slightly delayed.
<b>Input from the Public</b>	Susan Wood, Vice Chair, asked if there was any input from the public. None was offered.
<b>Announcements</b>	<ol style="list-style-type: none"> <li>1. Amanda Kaahanui announced that the virtual SPIN conference is scheduled for Oct. 22. It will be comprised of three workshops: stress management, mindful meditation and care mapping of resources. The conference is free and a flyer will be forwarded to members.</li> <li>2. Amanda showed SEAC’s webpage member portal in order to share the Word Cloud created by member contributions at the August meeting. Members can download a copy if desired. The portal also has the most current infographics in process.</li> <li>3. Susan Wood announced that SEAC is looking for a back-up designee for Martha for the Fiscal Allocation Work Group. The four meetings are from 9 a.m. to noon.</li> </ol>
<b>Dispute Resolution System Improvement</b>	<p>Annie Kalama introduced Jennifer Wolfsheimer and Cesar D'Agord, Senior Consultants in Special Education Policy &amp; Practice from the National Center for Systemic Improvement at WestEd. Jennifer thanked members for their honesty and openness on what needs improvement. She also thanked the HIDEOE staff who were similarly interested in improving the system.</p> <p><u>HIDEOE dispute resolution responsibility</u></p> <p>Every state that receives IDEA funds must have a general supervision system, of which the dispute resolution system is one component. It includes procedures and practices to implement the requirements of state complaints, mediation, and due process hearings to protect the rights of students and to produce data to evaluate the effectiveness of the state’s implementation of IDEA.</p> <p><u>WestEd’s approach to the review</u></p> <p>Jennifer and Cesar created a survey for stakeholders and conducted interviews from January to April 2022.</p>

<b>Dispute Resolution System Improvement (cont.)</b>	<p>They analyzed the information received from the interviews and surveys, along with document review and organized it into a Strengths, Weaknesses, Opportunities and Threats (SWOT) framework. Recommendations stemmed from the SWOT analysis.</p> <p><u>Procedural Safeguards Notice (PSN)</u> The PSN is an IDEA document that includes an explanation of the mediation, state complaint and due process systems within the state. Jennifer reported on the strengths, weaknesses, opportunities and threats related to the PSN (see attached HIDOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 2 - 3).</p> <p><u>Mediation</u> Mediation allows parties to try to resolve difference through an impartial mediator. Jennifer reported on the strengths, weaknesses, opportunities and threats related to mediation (see attached HIDOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 4 - 5).</p> <p><u>State Complaints</u> Any organization, parent or individual must be able to file a complaint regarding a violation of IDEA. The HIDOE must investigate and complete a report with its finding. Jennifer reported on the strengths, weaknesses, opportunities and threats related to written complaints (see attached HIDOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 5 - 7).</p> <p><u>Due Process Hearing Requests</u> A parent or a public agency may file a due process hearing request related to the identification, evaluation, placement or provision of FAPE to a student with a disability. HIDOE must ensure that the HIDOE response to these requests meets the requirements under IDEA, including timely decisions. Jennifer reported on the strengths, weaknesses, opportunities and threats related to due process hearing requests (see attached HIDOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 7- 8).</p> <p><u>Dispute resolution data collection</u> Every year by the 1st of November, states submit counts of occurrences and resolutions of state complaints, mediation requests, due process complaints and expedited due process complaints. The data is used by the Office of Special Education Programs (OSEP) to determine if the state met the requirements of IDEA. Cesar reported on the strengths, weaknesses, opportunities and threats related to the data collection (see attached HIDOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 8 - 9).</p> <p><u>Recommendations for HIDOE's Dispute Resolution System</u> Jennifer presented WestEd's recommendations based on a 5-year implementation plan. Year One recommendations (July 2022-June 2023) were prioritized to respond to threats identified in the review. Recommendations were divided into system recommendations, and recommendations specific to the</p>
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<p><b>Dispute Resolution System Improvement (cont.)</b></p>	<p><u>Recommendations for HIDEOE’s Dispute Resolution System</u> procedural safeguards notice, mediation, state complaints, due process hearing requests and dispute resolution data collection. Recommendations for Year One and Two were summarized (see attached HIDEOE Special Education Dispute Resolution Strategic Plan dated May 2022, pages 9 - 12).</p> <p><u>Next Steps</u> Jennifer, Cesar and Brikena all stressed that there will be many more opportunities to work together on issues identified in the dispute resolution review. Brikena also shared with members a promotional item that her team acquired to promote the dispute resolution campaign—a pen that has all of the SPP/APR indicators.</p> <p><u>Questions/comments from members and guests</u> Q. Did you identify the themes for the state complaints? A. No. The recommendations were based on the survey results. The process going forward is to look for trends. C. When I was on the SEAC in Maryland, we found a correlation between budget cuts to special education and increased numbers of state complaints. With information being shared about staffing shortages (for example, paraprofessionals and RBTs), is this related to the budget or can it be correlated to an increase in state complaints because parents are frustrated by not having enough staff. A. (Jennifer) Nationally, we have seen a significant uptick in complaints and due process hearing requests across the states. A. (Brikena) We have had an increase in state complaints this year compared to the previous year, but we haven’t analyzed the reasons for this. Our assumption is that it is related to COVID and the lack of capacity of trained teachers in the field. Q. Were all charter schools and the Charter School Commission consulted? A. (Brikena) We disseminated the survey statewide, working with SPIN and LDAH to reach parents, and a survey also went to the Complex Area Superintendents to disseminate to all their schools, including charter schools. Q. Can all original due process complaints be reviewed, including cases withdrawn or settled before a hearing? A. (Brikena) Our plan is to review all the complaints and due process decisions for the past five years. (Jennifer) The recommendation is to review the findings of the decisions for the past 5 years where there were corrected actions or requirements made by the hearing officer to ensure they were implemented. C. During the Felix Consent Decree we had more information on due process than we do today because the Felix monitor required the MAC branch to create a quarterly report. What was so helpful was that they were able to summarize the reasons for the requests and some demographics about the students’ ages, disabilities and districts. When we only look at the redacted decisions, we are missing the bulk of the data that could help us fix the system as a whole. C. SEAC has been summarizing the trends in the redacted decisions, but we don’t know about what happens to the other requests filed and how much is being spent on settlements. There could be a lot broken in</p>
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<p><b>Dispute Resolution System Improvement (cont.)</b></p>	<p><u>Questions/comments from members and guests (cont.)</u></p> <p>the system that we cannot see.</p> <p>C. I suggest training to all administrators as well with the new materials and parent friendly language. A. When the revision of the PSN is completed, there is a recommendation that all CASs and new administrators have that information, as well as procedures for requesting mediation.</p> <p>C. I'm having a hard time finding where parent-community input is in all these years of making changes and revisions. I am also concerned that the Department is going to do the revisions and SPIN and LDAH will be doing the training. Q. Why aren't we partnering for training and do it together.</p> <p>Q. Why aren't parents who are in the system involved in the revision of the Procedural Safeguards Notice? The current PSN is just a regurgitation of the law. It doesn't show me the process or practical applications.</p> <p>C. In the SWOT analysis of mediation, a strength listed is that when a concern arises, the DESs are informed by HIDOE to reach out to parents to offer mediation as a dispute resolution alternative. However, a weakness noted is that the majority of DESs who responded to the survey are not very familiar with the procedures for requesting mediation.</p> <p>C. A lot of the problem with due process is that when schools are not effective in communicating with parents and situations arise, the principal of the school gets taken off the hook and the complaint goes to the DES or the complex.</p> <p>Q. What about ensuring access to due process when a parent has a disability or the parent is unable to access the internet or the parent is not able to make multiple copies of documents to send to the school and district?</p> <p>C. When a parent can't find an attorney to represent them or they can't afford one, they go up against a DES who is trained by attorneys to go through the due process system. How do you expect a parent to match that advantage? I think you have to consider the possibility of making additional help available to parents. Resources like the Hawaii Disability Rights Center are maxed out.</p> <p>C. I agree. Pro se is far from fair.</p> <p>C. It is important to find a way to partner, so that parents who are knowledgeable can help develop the materials and resources for at-risk families. A. We did recommend that HIDOE collaborate with parent groups as a joint effort for training.</p> <p>C. HIDOE needs to focus training on the front line. I have yet to attend a meeting at any school where I was offered mediation. And each school is different in what they know and how they handle issues.</p> <p>C. One of the barriers for resolving problems is that there are certain things that can't be addressed in an IEP meeting (such as staffing and turnover). When parents try to solve the issue peacefully with mediation, the problem is that you don't meet face-to-face and the mediator can also be pretty clueless about IDEA. So there has to be a middle step where issues that can't be addressed in the IEP can be handled.</p> <p>C. I've experienced this. I would be cutoff in an IEP meeting, and I would have to schedule a meeting with a</p>
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<p><b>Dispute Resolution System Improvement (cont.)</b></p>	<p><u>Questions/comments from members and guests (cont.)</u></p> <p>principal. Yes, this does need to be addressed.</p> <p>C. Another barrier is that schools on Maui and elsewhere are putting up roadblocks to students getting initially identified as being eligible for services, and timelines are not being followed.</p> <p>C. To level the playing field families need access to free legal advice when they represent their child “pro se” in a due process hearing. The DES representing the Department has access to the Attorney General’s Office, even though the attorney is not present in the hearing room.</p> <p>Q. Who oversees the interpretation of what can be discussed in an IEP? Who oversees Admin or DES interpretation/implementation of IDEA and the “policies” for parents? It seems interpretation is left up to the admins and DES that goes unchecked. A. (Brikena) We are not IEP members, so we can’t oversee the interpretations in an IEP meeting. However, if a parent doesn’t understand the IDEA regulations or feels the interpretation is not correct, we want them to reach out to us. Unfortunately our system is not designed to really help parents, and we want to do an overhaul of the system, retraining all of the administrators and involving SEAC and parents in revising the PSN and all the templates.</p> <p>C. There appears to be a lack of consistency in the interpretation of IDEA (training issue?) and a lack of any type of oversight or auditing, etc. Otherwise school admins/DES have too much autonomy in their decision-making.</p> <p>C. With the PSN, having complimentary materials is helpful. For example, SPIN has developed a <i>Parent Guide to Partnership in Special Education</i> that breaks down complex information about the IEP process in a flip format. This kind of material can promote conversations and create shared understandings at the school level.</p> <p>C. My granddaughter had four different care coordinators last year. A lot of mistakes were made, and when we pointed that out, they responded that their feelings were hurt. Even when we are provided information about how to go through an IEP, the information can be overwhelming. Changes were made to my granddaughter’s IEP without our knowledge. When goals are not met on her IEP and no progress is made, they just drop the goals. Sometimes we ask the care coordinator or principal questions and they go unanswered. It’s really a difficult process.</p> <p>C. I am from the Parent Training and Information Center and I wanted to comment about interpretations. Often in the IEP, the principal makes the final decisions, even if they do not have the correct interpretation of the law. Families who don’t know the process are often committed to learning more and will show up, but the professionals in the room are not listening to parents and learning alongside us. Therefore we are ahead and they are behind.</p> <p>C. Recently, when requesting my son's IEP be amended and the principal be present, the VP stated the principal would not be present and she had the same authorization. If that was the case wouldn't she be the</p>
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<p><b>Dispute Resolution System Improvement (cont.)</b></p>	<p><u>Questions/comments from members and guests (cont.)</u> principal? C. CADRE lists IEP facilitation by a neutral facilitator as an early intervention. Hawaii used to offer IEP facilitation by the Mediation Center of the Pacific, but it is not part of the recent contracts. C. Rod Maile at the Department of Commerce and Consumer Affairs (the former administrative hearing office) held several sessions for families to familiarize them with how a due process hearing is conducted. C. Preparation should be at the transition from early intervention services to DOE services before the child turns 3 years.</p>
<p><b>SEAC Leadership Team Suggestions for Further Action</b></p>	<p>Susan W. and Susan R. shared two SEAC Leadership Team’s suggestions for working together on dispute resolution problems that were conceived prior to hearing about the HODOE strategic plan. <u>Promotion of Prevention/Early Intervention Materials</u> The first idea is to encourage the wide dissemination of training materials developed by the Center on Appropriate Dispute Resolution in Education (CADRE) to encourage early resolution of parent-school disagreements. Members viewed “A Tale of Two Conversations” (<a href="https://www.cadeworks.org/resources/cadre-materials-state-resource/tale-two-conversations">https://www.cadeworks.org/resources/cadre-materials-state-resource/tale-two-conversations</a>) and were given a link to view another video, “Understanding Positions and Interests” (<a href="https://www.cadeworks.org/resources/understanding-positions-and-interests-video">https://www.cadeworks.org/resources/understanding-positions-and-interests-video</a>). Susan W. shared that another avenue for SEAC would be to create a local version of the Two Conversations video. <u>Ad Hoc Committee to Investigate Barriers to Due Process Safeguards</u> Susan R. reminded members of the concerns generated by the May due process report that families were having difficulty finding affordable legal representation for a due process hearing and that parents who chose to represent their child ‘pro se’ were at a legal disadvantage. These are examples of important issues that is not currently targeted for action in the strategic plan presented by West Ed and the MAC Branch today. SEAC Leadership recommends forming an Ad Hoc Committee on Dispute Resolution. Individuals expressing an interest in serving on this committee are members Paul Meng, Mark Disher, Jasmine Williams, Kiele Pennington, Melissa Johnson, Melissa Harper Osai and guest Leilani K.</p>
<p><b>Review of the Minutes for August 12, 2022</b></p>	<p>The draft minutes for August also included Attachment A from the MAC Branch. No corrections were offered. <b>Action: The minutes were approved as disseminated.</b></p>
<p><b>Agenda Setting for the October 14, 2022</b></p>	<p>Staff from the Policy, Innovation, Planning and Evaluation (PIPE) Branch met with a small group of SEAC members and other agency representatives in August to discuss how to avoid unfairly targeting special education parents in an anticipated reintroduction of legislation to address the harassment of educational workers. One suggested agenda item for October is to ask PIPE to have a larger discussion with SEAC. This suggestion elicited a number of comments from members including:</p>

**Agenda Setting for the  
October 14, 2022 (cont.)**

- One of the recommendations in our annual report is that the Superintendent work with us on this legislation;
- I disagree with asking parent groups for language on a bill that is opposed by most special education parents;
- There is already a harassment bill on the books, so a second bill is unnecessary;
- The reason why many parents are frustrated is because school staff are not collaborating with parents and they don't have the skills to de-escalate situations;
- The bill is going to be reintroduced, so we need to have a voice at the table prior to the bill being heard at the Legislature;
- It is important to try to follow the Leading by Convening process to resolve thorny issues;
- The reason to sit at the table is to give them other alternatives;
- This ties in with trauma-informed practices, and we might have the opportunity to bring some care practices to the issue of keeping schools safe;
- The Governor's new Office of Wellness and Resilience might be a resource for direction of meeting the goal of safety without resulting in intimidating or punitive legislation;
- We should be focusing on and replicating the exceptional parent-school partnership practices of some schools in order to improve the overall school climate;
- We need to have the conversation with PIPE or DOE leadership to reinforce that this kind of bill pits parents against schools when alternative measures may preserve the relationship;
- Can we steer them into redefining the existing harassment law across the board?;
- In the smaller meeting, data was shared that showed an upward trend, but many of us attribute that to COVID stressors;
- I can't fault parents with being so frustrated with the DOE's response to COVID and a nonchalant attitude about meeting the needs of students with disabilities;
- SEAC needs to first have a discussion by ourselves to hone our arguments;
- We need better data before we can have a rich discussion;
- We need to separate the issues of true threats to the safety of school personnel vs. slowing down school functions by filling up voice mail or deliberately delaying special education timelines.

After a rich discussion, the consensus was to have the SEAC Leadership Team approach PIPE and/or Superintendent Hayashi about ways to partner around solutions to harassment of school personnel. Other suggested agenda items include:

- Trauma informed care,
- Parent school partnerships (based on the WestEd report),

<p><b>Agenda Setting for the October 14, 2022 (cont.)</b></p>	<ul style="list-style-type: none"> <li>○ Preparing for the APR meeting in December (check with MAC Branch), and</li> <li>○ Infographic work.</li> </ul>
<p><b>Infographic Work Groups</b></p>	<p><u>SPIN Infographics on How to Create Infographics</u> Susan W. asked Amanda and Susan R. to share the two infographics they prepared for MCH LEND trainees regarding the process of creating family-friendly infographics. The first is titled "Infographic Criteria" and organized as a checklist. It lists the 8 criteria SEAC members developed to measure the quality and consistency of infographics produced by its members. The second is titled "6 Steps to Create an Infographic in Venngage." It includes log-in information, access to tutorials, pre-preparation tips, the importance of getting feedback and posting of source materials.</p> <p><u>Diploma vs. Certificate Infographic Final Vetting</u> Lisa Vegas announced that their two-page infographic has been updated with minor changes based on the new Certificate of Completion Guidelines and trying to use family-friendly language. DOE has expressed their approval of its contents. A minor revision was suggested on the Venn diagram infographic under the first bullet in Commonalities between Diploma and Certificate: <i>All components of an IEP <u>are</u> implemented.</i> <b>Action: Members approved the two-page infographic for distribution.</b></p> <p><u>Question/comments from members and guests</u> Q. Does Chapter 60 list a recommendation of the grade level where a decision regarding pursuing a diploma or certificate track is made? At what time do parents decide? A. We want to have the conversations early and no later than 9th grade to understand the parent's and student's vision of what their future goals are. At 16 we have to make some firm decisions, but when we talk about planning for post-high school, we want to start those conversations in elementary school. Q. The credits toward graduation begin in 9th grade, right? A. Yes. C. My family had that conversation about diploma track for my son in 6th grade, because we knew we needed to prep for high school by focusing on academics in middle school. When parents call SPIN, we encourage them to try for a diploma. They can always pull back, but if they have chosen a community based program for their child, it's much harder to add academics. Some students with disabilities have the flexibility to pursue their credits for graduation up to age 22, if their IEP shows that they have not yet met their goals. Q. Can a student receive special ed support during a summer class that is being offered to all students, without being ESY? In middle school, when general education students are offered credit recovery or enrichment classes, I haven't heard of any students with ESY services being able to access those classes. C. (Susan W. and Steven) Thank you to Drew Saranillio and our technical team for helping us to hold our first hybrid meeting.</p>