

Citywide Council on Special Education

Annual Report

2011 - 2012

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Background

The CCSE was created in the NY State Education Law, often referred to as the Mayoral Control Law. Under the law, the Mayor controls the New York City Department of Education (Dept. of Ed.) by appointing the Chancellor and has control of the Dept. of Ed. governing body, the Panel for Educational Policy (PEP). The Mayor appoints the majority of the thirteen members of the PEP.

The CCSE is one of three authorized Citywide Councils with duties and obligations as defined in the NY State Education Law Section 2590-b, 4a.

4. a. *There shall be a citywide council on special education created pursuant to this section. The citywide council on special education shall consist of eleven voting members and one non-voting member, as follows:*

- (1) Nine voting members who shall be parents of students with individualized education programs, to be selected by parents of students with individualized education programs pursuant to a representative process developed by the chancellor. Such members shall serve a two-year term;*
- (2) Two voting members appointed by the public advocate of the city of New York, who shall be individuals with extensive experience and knowledge in the areas of educating, training or employing individuals with handicapping conditions and will make a significant contribution to improving special education in the city district. Such members shall serve a two year term; and*
- (3) One non-voting member who is a high school senior with an individualized education program, appointed by the administrator designated by the chancellor to supervise special education programs. Such member shall serve a one-year term.*

b. *The citywide council on special education shall have the power to:*

- (1) Advise and comment on any educational or instructional policy involving the provision of services for students with disabilities;*
- (2) Advise and comment on the process of establishing committees and/or subcommittees on special education in community school districts pursuant to section forty-four hundred two of this chapter;*
- (3) Issue an annual report on the effectiveness of the city district in providing services to students with disabilities and making recommendations, as appropriate, on how to improve the efficiency and delivery of such services; and*
- (4) Hold at least one meeting per month open to the public and during which the public may discuss issues facing students with disabilities.*

Current Members

Jaye Bea Smalley – Co-Chair	Cynthia Alvarez	Bryan Stromer - Student Rep.
John Englert – Co-Chair	Lucy Antoine	
Lakisha Brooks – Vice President	Audrey Dunlap	
Louise Bogue – Recording Secretary	Ellen McHugh	
Lori Podvesker – Treasurer	Rebecca Ramos	

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EXECUTIVE SUMMARY

The 2011-2012 Annual Report of the Citywide Council on Special Education (CCSE) is a statutory mandate that requires the Council to report on the effectiveness of the city district in providing special education services to students with disabilities and make recommendations, as appropriate, on how to improve the efficiency and delivery of such services. This is the second annual report issued by the CCSE since it was reconstituted in 2009. The CCSE was created in the NY State Education Law, often referred to as the Mayoral Control Law. Under the law, the Mayor controls the New York City Department of Education (Dept. of Ed.) by appointing the Chancellor and has control of the Dept. of Ed. governing body, the Panel for Educational Policy (PEP). The Mayor appoints the majority of the thirteen members of the PEP. The CCSE is one of three authorized citywide councils as defined in the NY State Education Law Section 2590-b, 4a.

The school year 2011-2012 was particularly tumultuous. Not only was there a sudden change in leadership when Chancellor Walcott was appointed in the Spring of 2011, but the highly anticipated citywide roll out of special education reforms had been postponed until the 2012-2013 school year. As the Dept. of Ed. prepared to roll out the special education reform to articulating and over the counter students in schools citywide, Deputy Chancellor Laura Rodriguez and Executive Director Lauren Katzman announced their departure from the Dept. of Ed. shortly before the school year ended.

The goals of the reforms are to:

- Close the achievement gap between students with special needs and their general education peers.
- Increase access to the general education curriculum.
- Increase participation in general education settings with age appropriate peers, learning age appropriate language, having age appropriate social interactions and using age appropriate materials for learning.
- Build school based capacity to serve students with special needs with greater flexibility.

The CCSE as well as parents, teachers and the education community have become increasingly skeptical of the Dept. of Ed's ability to implement the principles of the reform with any success. Furthermore, the Dept. of Ed has still not issued the highly anticipated report on Phase 1 of the reform. Phase 1 included 265 schools between the 2009-2010 and 2010-11 school terms who were implementing flexible programming and reorganizing school resources to educate their students with disabilities in the general education environment to the greatest extent possible. The vast majority of the schools that participated in the initiative were in the Bronx at 47.3% and the least number of schools to participate were located in Staten Island at 2.7%.

The 2011-2012 year was difficult for parents, educators and students given these changes and other major policy changes which affect how students with disabilities receive mandated IEP

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programs and services. While the Department has been preparing at the administrative level for several years, we heard from increasing numbers of exasperated parents throughout the year who have received little to no engagement or information on the reform. Moreover, as resources in schools continue to dwindle, the CCSE, parents and other concerned members of the education community question how schools plan to support students with the new funding formulas; special education money is now weighted to the individual student based on the percent of time spent they are included in general education classrooms. In the past, special education funds were allocated to fund seats to ensure availability of programs on the continuum.

At the outset, the CCSE has been committed to an ongoing dialogue with the Dept. of Ed. to fulfill our mandate and ultimately ensure the best interests of students with disabilities are served by the Department of Education. We continue to encourage the Dept. of Ed. to increase the levels of transparency, develop a communications method to fully engage the public and improve accountability for activities critical to the reform, including a report on Phase 1 and the professional development and training of school staff. These broad themes are consistent in the topics of the enclosed report, as well as the CCSE Annual Report from 2010 – 2011.

The Annual Report focuses on the following topics:

- Communications
- Integrating Parents of Students with Disabilities into leadership
- Support and Development at the Community School Level
- Resources and Funding
- Response to Intervention
- Related Services
- Structure of the IEP Team
- Teacher Evaluations
- School Hearings: Grade Expansions and Truncations, Closures, Charter Schools
- Transportation
- Medicaid in Education

The CCSE makes the following recommendations to the Dept. of Ed. and Panel for Educational Policy (PEP):

Communications

- Proactively engage the CCSE per their mandated advisory role when developing communications.
- Provide updated information on all policies and procedures to the CCSE, as well as to the other Citywide Councils, local Community Education Councils and the Chancellors Parent Advisory Council (CPAC).
- Ensure that parents receive all communications that would enable them to actively participate in the IEP and discussion of their child's programs.

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- As a minimum, schools should provide parents with an explanation of what services they provide, parental due process rights including the distinction of special education complaints vs. general school complaints and the CSE contact information.
- Issue a public report on the effectiveness of Phase 1 of the Special Education Reform.
- Expedite the ability for parents' to access the SESIS system so they have access to their child's IEP like all other members of the IEP team.
- Clarify the Reform as a policy vs. Federal IDEA when proposing changes to parents and in communication to schools.
- Widely distribute the one page guidance document on the special education roll out to all parents, in all schools, at all levels.
- Use people first language; Students with disabilities rather than "SPEDS".

Integrating Parents of Students with Disabilities into Leadership

- Design and publish a reference guide for parents that lists programs, curriculum and Assistive Technology. Include parents from schools, local districts and citywide levels in the development of the reference guide.
- In collaboration with the CCSE, review the reference guide for needed updates and improvements on an annual basis.

Support and Development at the Community School Level

- Issue a public report on the effectiveness and impact the Networks have on the schools they support.
- Design and develop a reference guide for parents that lists programs, curriculum and assistive technology available.
- Clarify the role of the CFNs as support organizations.
- Provide transparency at the school level as to what specific services and curriculum support students with disabilities.

Resources and Funding

- Develop tools within the existing accountability structure that gathers, collects and analyzes data that correlates student IEP goals with metrics of college and career readiness including: Regents diploma, local diploma, skill credential certificate disaggregated by students with and without IEPs.
- Integrate the needs of students with disabilities into the policies of system wide Dept. of Ed. initiatives.
- Provide transparency at the school level as to what specific services and curriculum are afforded by FSF to support students with disabilities.

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Response to Intervention (RTI)

- Ensure minimum requirements and fidelity for RTI programs in the New York City Public Schools and other New York State LEAs.
- Training for SLT's on RTI requirements.
- Training for staff implementing RTI.
- Disseminate information on RTI to all school communities.
- Request that NYSED report on the effectiveness of RTI/AIS programs used throughout the state (Governor's Commission and Legislature).

Related Services

- Detail the type and number of related service providers currently supplying services to students, as well as the caseload.
- Detail the type and number of contracted related service providers currently supplying services to students, as well as the caseload.
- Clarify the time allowed for non public schools to ramp up their related services providers hiring process.
- Clarify the response time for contracted agencies to find a provider once the public school determines a child cannot be served: five (5) working days or five (5) calendar days.
- Provide parents with the list of primary, secondary and tertiary agencies by borough or region served.

Structure of the IEP Team

- Continue the current mandated membership of the IEP teams.
- Prioritize additional hiring of appropriate staff to allow for a full team per school.
- Educate IEP teams on resources and assistance available through the networks.
- Allow time for IEP teams to build professional capacity at appropriate trainings and conferences.
- Educate school principals on the resources and skills necessary for IEP team members.

Teacher Evaluations

- Incorporate parent surveys aligned with appropriate NYS teaching standards into the teacher evaluation system.

Charter Schools: School Hearings, Grade Expansions, Truncations & Closures

- Revise the building usage plan to ensure that appropriate space is identified in all schools for related service delivery and other individual services that respect the privacy of the student, as well as providing access to all common building spaces.

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- As a minimum, schools should provide parents with an explanation of what services they provide, parental due process rights including the distinction of special education complaints vs. general school complaints and the CSE contact information.
- Require individual charter school boards to send any complaints received regarding provision of services to a student with and IEP to the appropriate Dept. of Ed. Committee on Special Education (CSE) for timely follow-up with a copy to the NYSED office of Charter Schools.
- If a school accepts a child with an IEP and cannot fulfill all of the mandates, a letter should be sent to the parents informing them which services they do not provide and instructing them to follow-up with the CSE for a Related Service Authorization (RSA).
- Make a Service Delivery Report for charter schools available.
- Since the Dept. of Ed. sited timing as the reason for overbooking hearings in districts, there should be a limit on the number of proposed co-locations that can be considered in a district each year. This may involve legislative change.
- The Dept. of Ed. should not move forward with a charter school project or expand the grade structure of a charter school until a full estimate of available space meets approval of the school SLT. This may involve legislative change.
- If a charter school plans to co-locate in a public school, the Educational Impact Statement (EIS) should provide information on how their programs will improve ELA and Math scores in the students they plan to serve, as well as the students in the co-located school.
- Collect rent based on the rates of the surrounding area where the charter school is sited.

School Transportation

- Revise and update Chancellor's Regulations 801 which describes busing eligibility requirements.
- Revise and up-date bus driver training manuals.
- Revise and up-date bus matron training manuals.
- Schedule training 4 times per school year for both bus drivers and matrons.
- Review and implement recommendations contained in the CCSE Busing Report of 2005.

Medicaid Reimbursements

- If a parent consents to allow the Dept. of Ed. to bill Medicaid for certain related services, parental access to Special Education Student Information System (SEIS) will enable parents to see their child's individual service report to ensure they receive the services eligible for School Supportive Health Services Program (SSHSP) while also preventing fraudulent billing activity.
- The Comptroller should audit the SEIS system to ensure providers are submitting appropriate documentation of services during working hours.

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The members of the Citywide Council on Special Education are ready to assist the Dept. of Ed. and Panel for Education Policy (PEP) in efforts that facilitate inclusive parent engagement so as to promote improved educational outcomes for all students. We look forward to a collegial discussion on the contents of the enclosed report and recommendations. Moreover, we are interested in working collaboratively to make this a living document and improve the effectiveness and delivery of special education services in New York City.

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I. Communication

Since announcing the reform and the start of Phase 1 in 2010, the New York City Department of Education has yet to effectively establish and implement systemic practices for open and widespread communication with all stakeholders. At Community Education Council (CEC) and Parent Teacher Association (PTA) meetings throughout the city, we realized most teachers, parents and concerned citizens were unaware that the September 2012 citywide roll out of the reform only applied to articulating grades of Kindergarten, sixth and ninth grades, transfer students and those students entering from other educational settings.

The NYC Department of Education's (Dept. of Ed.) special education reform initiative changes the way students with Individualized Education Plans (IEPs) are educated so that the following federal mandates as described in the Individual with Disabilities Improvement Education Act (IDEA) requires the Department of Education to educate students with disabilities "...to the maximum extent possible alongside non-disabled peers, have access to the general education curriculum and attend the same schools they would if they did not have a disability". In order to further that goal, the Dept. of Ed. decided on a roll out period of two years to implement this goal in the 260 schools that had volunteered to be part of this initiative. In order to provide training and professional development, the Dept. of Ed. has partnered with the Inclusive Project at Teachers College. The CCSE has repeatedly requested information regarding the training programs at Teachers College. While we have received attendance numbers and the dates for which various programs took place, we have yet to receive any meaningful data or information about the impact of the programs for teachers trained to provide inclusive classrooms for students with IEPs or the type of modifications and accommodations developed to assist teachers. We are waiting for the Dept. of Ed. to provide us, or any outside advocacy organization, with a comprehensive report on the success of the professional development by Teachers College during the past two years.

The departure of Deputy Chancellor Laura Rodriguez and Executive Director of Special Education Lauren Katzman within weeks of the citywide roll out of the reform did not inspire confidence in the integrity or success of the reform. We share the concerns of other stakeholders in the education community who fear that the Special Education Reform Reference Guide distributed to school principals has created confusion in the education community for both staff and parents.

The departure of Deputy Chancellor Laura Rodriguez and Executive Director of Special Education Lauren Katzman within weeks of the citywide roll out of the reform did not inspire confidence in the integrity or success of the reform.

In late spring of 2012, a series of information sessions were held throughout the five boroughs in an attempt to ensure community schools had a better understanding of the incoming students in their zone. In addition, information meetings were scheduled for parents who had children entering kindergarten (often

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referred to as students turning 5). Many of our members attended various meetings where they heard parents voice concerns that, in early discussions at schools, students were to be offered placements in local schools in general education programs with limited to no available appropriate services. Parents of students who were in small, center-based programs for pre-kindergarten were concerned about the effect of larger class sizes, as well as the training and competency of the general education kindergarten teachers. While Integrated Co-Teaching (ICT) was often offered as an alternative methodology, parents were concerned that the embryonic nature of the ICT program had not lead to the full development of an understanding of the nature of ICT classrooms. Teachers, unfamiliar with the concept of ICT, would be placed in the uncomfortable situation of creating immediate professional partnerships, as well as learning about the students, and teaching in these newly minted classrooms.

Expedite the ability for parents to access SESIS so they have access to their child's IEP like all members of the IEP Team.

We remain concerned regarding the availability of placement options and direction to parents when a child's program cannot be implemented in a zoned/local school. Furthermore, we continue to hear from parents who have not been included in developing and creating individualized education plans for their child's IEP, thus violating the parent's right to participate on the IEP team as required by Federal law, the IDEA, that ensures a Free and Appropriate Public Education (FAPE) in the least restrictive environment (LRE).

Recommendations

- Proactively engage the CCSE per their mandated advisory role when developing communications to parents and other stakeholders.
- Provide updated information on all policies and procedures to the CCSE, as well as to the other Citywide Councils, local Community Education Councils and the Chancellors Advisory Panel.
- Ensure parents receive all communications that will enable them to participate as full members of IEP teams.
- As a minimum, schools should provide parents with an explanation of what services they provide, parental due process rights including the distinction of special education complaints vs. general school complaints and the CSE contact information.
- Issue a public report on the effectiveness of Phase 1 of the Special Education Reform.
- Widely distribute the one page guidance document on the special education roll out to all parents in all school and at all levels.
- Expedite the ability for parents' to access the Special Education Student Information System (SEIS) so they have access to their child's IEP like all other members of the IEP team.

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- Clarify Reform policies vs. Federal IDEA to parents and schools in all communications.
- Use people first language, i.e., Students with disabilities not “SPEDS”.

II. Integrating Parents and Students with Disabilities in Leadership

The Dept. of Ed. acknowledges that for too long, students with disabilities have been segregated. We applaud the Dept. of Ed. for recognizing this; however, it takes time to change a culture based on years of practice. In reviewing the proposed regulations for Community Education Councils (CEC’s), Citywide Councils, Parents Associations and School Leadership Teams, it is clear that the Dept. of Ed. has not thoughtfully considered the impact of serving students with disabilities in their zone schools and ensuring they will be able to participate in the general education environment throughout the day. All school functions and community building activities must include the whole student body. In the past many events were not planned to consider accessibility. It will be incumbent upon all School Leadership Teams (SLTs) to include such issues in planning sessions.

Recommendations

- Design and publish a reference guide for parents that lists programs, curriculum and assistive technology. Include parents from schools, local districts and citywide levels in the development of the reference guide.
- In collaboration with the CCSE, review the reference guide for needed updates and improvements on an annual basis.

III. Support and Development at the Community School Level

Throughout the year, the CCSE heard from exasperated parents returning from their children's local schools that do not offer any of the services or programs on the child's IEP.

Most of the work that has been done on the full system roll out that began in fall of 2012 supports internal processes, policies and bureaucracy. Unfortunately, these systems and supports do not provide much help to students and their families. Preparing to reform special education cannot be done piecemeal. This requires full engagement of the education community, families and the community at large.

As required by law, the CCSE holds open public meetings once a month for input from parents and communities and as informational sessions. On an average 25-30 parents and community members attend CCSE meetings. Throughout the year, the CCSE heard from exasperated parents returning from their children's local schools that do not offer any of the services or programs on the child's IEP. Often the child has a special need requiring specific services or programs. As of September 2012, there wasn't specific direction to schools on what resources

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are available to meet the needs of specific disabilities, i.e., hearing-impaired and vision-impaired students.

As there has yet to be a sustained effort on the part of the Division of Family and Community Engagement (DFACE) to inform or provide training to parents in the Community School Districts on the special education roll out, the CCSE managed two outreach events on the roll out. On April 18th in Brooklyn Borough Hall, the CCSE, in collaboration with the CD75 Council, convened an informational event for parents. Approximately 175-200 parents were able to ask

questions of the Dept. of Ed., as well as other advocacy and community resource organizations. The CCSE conducted training for CEC members on the reform on Saturday, April 21st. Twenty members of various CECs, as well as local elected officials or their representatives, participated in a half day workshop. Invited guests included Assemblywoman Catherine Nolan and Deputy Commissioner Rebecca Cort. All attendees participated in in-depth discussions on the roll out with Deputy Chancellor Rodriguez.

The networks have been reorganized three times during the past eight years. This constant churning of staff and redirection of resources has created confusion in the minds of most parents.

As in the past, parents continue to question the purpose of the network structure imposed for the past eight years. District schools contract with one of fifty-nine (59) Children's First Networks (CFN). "Networks are teams of educators and administrative support staff who provide integrated support in all areas of instruction and school operations customized to each school's needs. There are about 25 schools in each network. Networks are accountable for the instructional quality, sound operating practices and overall student achievement of their schools." ¹ There are 59 Children's First Networks organized into 5 clusters that report to the Division of School Support. In an attempt to provide more assistance to schools in 2011, each network was assigned a dedicated special education coach to support all 25 schools in their network. The networks have been reorganized three times during the past eight years. This constant churning of staff and redirection of resources has created confusion for most parents. While Superintendents still exist and are the rating officers of principals in the local community school district, schools depend on their networks for training.

Principals, who are not mandated members of school IEP teams at the schools, are expected to be well informed of the needs of the students at all levels and in all types of classrooms settings. Principals depend upon the knowledge and expertise of the School Based Support Team/IEP teams, who can have direct contact with the student, the parent and the teacher. Since many teachers haven't had the opportunity to experience at the elbow professional development, principals should feel comfortable welcoming support into their schools. However, if they experience confusion and misdirection at the outset, it is unlikely that they will foster a relationship that will enable our students and educators to benefit from any of the expertise the

¹ NYC Dept. of Ed. Structure for Supporting Schools, meeting with ARISE Coalition, Dec. 15, 2011, pg. 2-3

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network staff may be able to bring to schools.

The CCSE is concerned with the confusion surrounding the roles of the network staff. Are they colleagues who support and mentor staff or are they watchdogs who enforce policy compliance?

Recommendations

- Issue a public report on the effectiveness and impact the networks have on the schools they support.
- Design and develop a reference guide for parents that lists programs, curriculum and assistive technology available for specific disabilities.
- Clarify the role of the CFNs as support organizations.
- Provide transparency at the school level as to what specific services and curriculum are available to support students with disabilities.

IV. Resources and Funding

The Dept. of Ed. presented information on the Special Education Reform to the CCSE on several occasions² and made several public presentations to CECs in spring of 2012. In July, Deputy Chancellor Corinne Rello-Anselmi reported that Jan McDonald would be working in a position dedicated to the analysis of Phase 1 data. The CCSE requested specific data that is necessary to successfully analyze the progress of students with disabilities after one year of Phase One. The CCSE explained how LRE is a relative term, unique to each student and that the term MRE does not exist. Furthermore, any data provided on placement would only be relevant in the context of educational progress. The Council continues to ask for shared practices among successful schools, as well as plans to share them systemically with the public. Educators, parents, advocates and community members continue to ask how schools will use resources differently to better support students with disabilities when seats are no longer funded and the student with services 20-60% of the day have increased funding. Furthermore, the Dept. of Ed. has failed to provide full transparency on the specific services and curriculum that are allowable for schools to purchase with Fair Student Funding (FSF) money that belongs to students with disabilities. Moreover, the Dept. of Ed. does not have any plans to ensure these funds for students with disabilities are used with

The CCSE is concerned with the confusion surrounding the roles of the network staff. Are they colleagues who support and mentor staff or are they watchdogs who enforce policy compliance?

² Department of Education statistics, Dept. of Ed. webpages, 2012

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proper oversight and responsibility. In most cases, the parents we represent have expressed concern that their community schools do not have the adequate training or services to support their children.

Recommendations

- Develop tools within the existing accountability structure that gathers, collects and analyzes data that correlates student IEP goals with metrics of college and career readiness including: Regents diploma, local diploma, skill credential certificate disaggregated by students with and without IEPs.
- Integrate the needs of students with disabilities into the policies of system wide Dept. of Ed. initiatives.
- Provide transparency at the school level as to what specific services and curriculum are afforded by FSF to support students with disabilities.

Provide transparency at the school level as to what specific services and curriculum are afforded by FSF to support students with disabilities.

V. Response to Intervention

As of July 1, 2012, new legislation went into effect that changes how a child in K-4 is assessed and determined to be struggling by a classroom teacher. Response to Intervention (RTI) has been a methodology used in many school districts across the states. Interventions vary in intensity for each tier: large group instruction; small group instruction; and finally, individualized instruction. RTI must be a multi-tiered instructional framework, allowing schools to identify students at-risk for poor learning outcomes, monitor student progress, provide evidence-based interventions, and adjust the intensity and nature of those interventions depending on a student's responsiveness. States and Local Education Agencies (LEAs) have an obligation to ensure that evaluations of children suspected of having a disability are not delayed or denied because of implementation of an RTI strategy.³

We believe that RTI can and if properly implemented, will prevent unnecessary referrals to special education.

While RTI should not interfere with mandates to receive a timely evaluation for a child suspected of having a disability, we are concerned that school staff does not understand the difference between and among learning disabilities such as dyslexia, dysgraphia, dyscalculia or dyspraxia,⁴ leaving students to languish in an inappropriate program or classroom.

³ Memorandum: M. Musgrove, Director, Special Education, US Dept. of Ed, Jan. 2011

⁴ Dyslexia, difficulty in learning to read or interpret words
Dyscalculia, difficulty with mathematics
Dysgraphia, inability to write
Dyspraxia, inability to perform actions

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The CCSE held a public meeting in September 2011 to clarify the RTI plans and policies being developed for our school system. We received general information on RTI but no information on how it would be implemented in NYC or how it would be communicated to parents. Most parents and community members are familiar with Academic Intervention Services (AIS) not the term RTI. AIS teachers are most likely to be trained to provide tier two and three interventions, while classroom teachers will be responsible for tier one assessments.

We are concerned that the Dept. of Ed has not yet provided systemic professional development to teachers and staff. Additionally, research based curriculum must be used and monitoring must occur to determine the success of interventions. We still have no clarity about the length of time each student who is identified as in need of intervention will receive these services. A period of 6-8 weeks has been suggested for each tier. What services will they receive during that period? If a school is using the Wilson Method for reading instruction will teachers continue to use that methodology or another program, such as PAF or Lindamood Bell, with the struggling students?

We received general information on RTI but no information on how it would be implemented in NYC or how it would be communicated to parents.

Recommendations

- Ensure minimum requirements and fidelity for RTI programs in the New York City Public Schools and other New York State LEAs.
- Training for SLT's on RTI requirements.
- Training for staff implementing RTI.
- Disseminate information on RTI to all school communities.
- Request that NYSED report on the effectiveness of RTI/AIS programs used throughout the state (Governor's Commission and Legislature).

VI. Related Services

As defined in NY State Education regulations, 200.1 sec. qq, Related Services are:

"...developmental, corrective, and other supportive services {...} required to assist a student with a disability and includes speech-language pathology, audiology services, interpreting services, psychological services, physical therapy, occupational therapy, counseling services, including rehabilitation counseling services, orientation and mobility services, medical services as defined in this section, parent counseling and training, school health services, school nurse services, school social work, assistive technology services, appropriate access to recreation, including therapeutic recreation, other appropriate developmental or corrective support services, and other appropriate support services and includes the early identification and assessment of disabling conditions in students."

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Related Services are an addition to the child's IEP and are not meant to shorten, truncate or interfere with a student's academic program. Historically, NYC has not been able to provide all of the related services mandated by the IEPs of students through Dept. of Ed. staff. In an effort to provide services and avoid sanctions for non-compliance, contracts to provide the services were developed and offered through a request for bids.

Once it was determined that a Dept. of Ed. employee could not provide the mandated related service, agencies were contacted. Prior to this year, the Dept. of Ed. had a two-tier referral practice. The primary agency in the borough was given five (5) days to provide a trained therapist. If, after five (5) days, the primary agency could not meet the need, a secondary agency was given five (5) days to fill the position. If, after the two attempts, no agency could provide the service, parents were given an opportunity through a Related Services Authorization (RSA) letter to find their own private provider(s). As a result of these practices, a system of private providers thrived in NYC. It was common knowledge that providers were waiting to pick up the slack and that public and nonpublic schools in NYC did not have sufficient staff to provide the service mandated on IEPs.

As individual parents prevailed in placement requests through Impartial Hearings or when the Dept. of Ed. agreed that the student would be better served in a non-public school, children were arriving in non-public schools, also referred to as State Approved 853 schools, with mandates for services that were not available in the non-public school. In effect, NYS was paying twice for the same service as it was incumbent upon a non-public school to provide all of the services on a child's IEP, not some, not a few. Private providers received pay through the Dept. of Ed., while the school also received tuition that should have included the related services.

During the summer months of 2012, the related services world was rocked by changes and revelations of fraud. On July 2, 2012 leadership at approved non-public schools received a letter from Belinda Johnson, Regional Supervisor of Special Education Quality Assurance (SEQA) in New York City. In the letter Ms. Johnson wrote "To remind NY State approved 853 school age providers that all related services for students enrolled in such schools are to be provided within the school's educational program in accordance with the individualized education program (IEP) and that cost associated with the provision of these services are the responsibility of the approved private school."

In August of 2012, at the end of the existing three-year contracts, negotiations with the contractors of related services were opened up. The new three-year contracts totaled six hundred and thirty eight million (638,000,000.00) dollars. Agencies bid and were awarded contracts. However, instead of a two-tiered referral process, the process was expanded; a third tier was added before a non-contracted provider could be hired by a parent. Additionally, another five (5)

Related Services are an addition to the child's IEP and are not meant to shorten, truncate or interfere with a student's academic program.

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days was allowed for the third provider to accept or decline the student. There was now a fifteen (15) day period to find a provider through the new contracts. Rumor also indicated that the reimbursement rates for services had been reduced from twenty-five (\$25.00) dollars to eighteen (\$18.00) or nineteen (\$19.00) dollars per session.

On August, 17, 2012, Chancellor Walcott was notified by Richard Condon, the Special Commissioner of Investigation for the New York City School District, that two individuals, Nelson Ruiz and William Cruz, had defrauded the Dept. of Ed. of over one million dollars (\$1,000,000.00) from the beginning of the school year in 2010 through the end of the school year in 2012. Both men had created fictional related service agencies to charge the Dept. of Ed. for sign language interpretation services that were never provided. In some case the forms were signed by long dead Dept. of Ed. employees, in other cases the student(s) had graduated from Dept. of Ed. programs years ago and in other cases the signatures of parents and school support staff were forged. "The volume of RSA billing invoices received on a daily basis made it virtually impossible to validate every signature." (Letter from Condon, August 17, 2012)

The new contracts were inaugurated in late August, just as school was starting for many non-public schools. There was a mad scramble to either find a provider willing to work at the school or to refer the parent back to the Committee on Special Education (CSE) as originally suggested in the Letter from Johnson. In an effort to allay some of the fears of parents and to allow the non-public schools the opportunity to hire new staff, NYSED hastily issued a Special Education Field Advisory, signed by James DeLorenzo, Statewide Coordinator for Special Education, and addressed to Impartial Hearing Officers, advising that "...NYSED recognizes that students at approved private schools who currently receive related services through an RSA may need to continue to have the services provided until school based services at the approved private school are available or an alternative program has been recommended that can implement the "Student's IEP." The Dept. of Ed. is reviewing individual cases to determine when the continuation of an RSA is needed for all or part of the 2012-2013 school year and schools and parents were given some breathing space.

Unfortunately, the communication from NYSED to the Dept. of Ed. did little to clarify the situation. School staff and CSE's were confused. Parents were receiving letters ending RSA agreements that had been reached prior to August 15, 2012, the last day an IEP could be completed in NYC. Requests for clarification from Dept. of Ed. personnel were not forthcoming. Parents, paying tuition for students in parochial, or in other schools, were also mistakenly being denied RSA's.

As the school year began, members of the CCSE were hearing from parents who were surprised and upset that long-term relationships with staff were being disrupted by the new directives from NYSED. Service providers were reaching out to members of the CCSE, as well as to the parents of the children, to complain about the process. Parents were told that the Dept. of Ed. had sixty (60) days to find a provider. Parents were being told the Dept. of Ed. had fifteen (15) days to find a provider. Clearly there has been more rumor than fact in any communications from the various CSEs and providers to parents.

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Recommendations

- Detail the type and number of related service providers currently supplying services to students, as well as the caseload.
- Detail the type and number of contracted related service providers currently supplying services to students, as well as the caseload.
- Clarify the time allowed for non-public schools to ramp up their related services providers hiring process.
- Clarify the response time for contracted agencies to find a provider once the public school determines a child cannot be served: five (5) working days or five (5) calendar days.
- Provide parents with the list of primary, secondary and tertiary agencies by borough or region served.

VII. Structure of the IEP Team

In addition to the new special education initiative, changes in the process for evaluations and assessments for students who are suspected of having a disability occurred due to state mandate relief. At this point in time each Committee on Special Education (CSE), of which there are ten (10), are expected to handle nonpublic school placements and new entries to the NYC public school system, as well as resolve conflicts between the parent and the school based IEP teams. Whereas, in the past, a District (CSE) was the entry point for school aged students described as having a special need, now the process has the local school IEP team assess and evaluate a student who has been referred for special education services. It is expected that, in most cases, the student will remain in her/his local school with appropriate supports and services. For children transitioning out of Early Intervention (EI) and for pre-kindergarten students, there is a referral process to the Committee on Pre-school Special Education (CPSE). Again, in most cases, it is expected that students will remain in the local or zoned schools with appropriate supports and services

Clearly there has been more rumor than fact in any communications from the various CSE's and providers to parents.

School based IEP teams should include the student's parent and teacher, a social worker and a psychologist, as well, as any other specialists needed to complete the assessment/evaluation. The IDEA is very clear that the student must be assessed in all areas of the suspected need(s). Many individual specialists may be involved in the initial assessments/evaluations. Members of the IEP team can be a prime resource for a parent who is either new to the system of special education services delivery or searching for answers to questions about a child's learning abilities. A child's IEP is reviewed on a yearly basis (annual review) and the student is fully re-evaluated at least once every three years (triennial review) to determine the need for continuing special education services.

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A parent's responsibility under the IDEA is to make an informed decision when participating as a full and equal member of the team and in the development of the IEP and placement decisions. Minimally parents are invited to an IEP meeting once a year for updates.

As a result of the re-authorization of the IDEA in 2004 there have been changes in the expected membership of the IEP team. If given appropriate due process notice, mandated members of the IEP teams may be excused from attendance. At one point, NYSED made a concerted effort to eliminate the requirement of a psychologist as a team member. Active lobbying by many parents and parent organizations ended the State Ed Department's request. As the psychologist is the one person on the team who can interpret the results of assessments such as the Wechsler Intelligence Scale for Children (WISC-R an intelligence test that can be completed without reading or writing by the child) or other intelligence assessments, parents were adamant that the psychologist remain as mandated member of the IEP teams. Interpreting the results of these assessments is time consuming and painstaking and requires expertise on the part of the evaluator. However, if a psychologist is excused from participation at the IEP meeting, s/he must provide a written explanation of the reasons for her/his absences.

It would seem foolish to exclude the person with primary responsibility for the IEP process from team meetings.

The CCSE is puzzled at this development as the psychologists are often the lead team members and responsible for the completion of paper work, as well as compliance issues. It would seem to be foolish to exclude the person with primary responsibility for the IEP process from team meetings.

The CCSE continues to endorse the importance of a psychologists and psychological evaluation since it is critical that parents and teachers have qualified individuals to interpret and communicate the findings of these evaluations and re-evaluations to parents so they can make informed decisions. Furthermore, determining the appropriate needs of each child with a disability and how that disability affects the student's access to education requires the expertise of all members of the IEP team

As of September of 2012, NY State Education Department has issued new regulations concerning the Parent Member of the CSE. The Parent Member is another parent of a child with an IEP who lives in the school district and is available to share her/his knowledge about parenting a child with special needs. A Parent Member is not an advocate and not expected to act as such. The Parent Member is particular to New York State and is not mentioned in, nor mandated, by the IDEA. As of now, parents will be required to notify the CSE if s/he would want to have a Parent Member attend the CSE meeting. However, the requirement for the Parent Member to attend meetings of the CPSE has not changed. The Dept. of Ed. has scheduled training for Parent Members in January of 2013 in an effort to assure a full team for the CPSE meeting.

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Recommendations

- Continue the current mandated membership of the IEP teams.
- Prioritize additional hiring of appropriate staff to allow for a full team per school.
- Educate IEP teams on resources and assistance available through the networks.
- Allow time for IEP teams to build professional capacity at appropriate trainings and conferences.
- Educate school principals on the resources and skills necessary for IEP team members.

VIII. Teacher Evaluations

There was tremendous attention given to the Teacher Data Reports (TDR) released this year. All teachers will be evaluated under the new evaluation system in the 2012-2013 school year. 108 schools participated in a pilot evaluation system based on Charlotte Danielson's Framework for Teaching⁵ that could have included school-defined elements such as student surveys or teacher contributions to the school community.

The Chancellor set ambitious expectations for students and staff and acknowledged that parent engagement improves student outcomes. Research suggests that parent surveys are a valid and reliable source of teacher evaluation.⁶ There does not seem to be any similar research on TDRs. The CCSE believes that it is necessary to provide parents with accurate information and data that will enable all parents to advocate more effectively for their child and may improve access to curriculum or instruction.

Recommendations

- Incorporate parent surveys aligned with appropriate NYS teaching standards into the teacher evaluation system.

IX. School Co-Locations and Charter Schools

The Dept. of Ed. continues to aggressively co-locate charter schools within public schools throughout the city, often against the will of a large number of community members. While the charter school may be co-located in a public school, the charter school pays nothing towards the maintenance of the entire building. Instead, improvements to the space and additional equipment are purchased for the students the charter will serve. Maintenance of the building, payment of related costs (i.e., electricity, water, food, busing, roof repairs) is the sole financial responsibility of the Dept. of Ed. Few charter schools in NYC have their own building. For

⁵ Charlotte Danielson, The Framework for Teaching Evaluation Instrument (2011 ed.), available at <http://www.danielsongroup.org/article.aspx?page=FfTEvaluationInstrument>.

⁶ Kenneth D. Peterson, Christine Wahlquist, Julie Esparza Brown, and Swapna Mukhopadhyay, —Parent Surveys for Teacher Evaluation, *Journal of Personnel Evaluation in Education* 17 (2003): 337-351.

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these reasons, charter schools are often criticized for draining resources from public schools.

Reviews of charter school admissions and student populations have revealed some unfortunate statistics. Overall, charter schools do not serve a similar ratio of students with disabilities as their neighboring schools do. Approximately 13% of students have IEPs. In the charter schools, approximately 9% of the students are students with IEPs.⁷ Of those students served in the charter schools it appears that the students are those with less demanding needs.⁸ The National Council on Disability, the President's Advisory Council on Disability Policy, stated that charter schools not systematically providing students with disabilities a free appropriate public education is a national concern in their 2012 National Report.⁹ The Council suggested legislative changes that will strengthen and clarify the rights of students under IDEA in public charter schools.

Charter schools come in three different forms: Independent of the LEA, part of the LEA or neither and responsible to the State Education Agency (SEA). An independent charter school, that is considered to be its own LEA, has the same duties and obligations under the IDEA as the local LEA: Identify, locate, evaluate and offer services to those students with disabilities who reside within the LEA, in this case the charter school. If a charter school operates as part of the local LEA, the LEA is responsible for services to the student. The relationship between the two entities, charter and LEA is defined in State law, but in no case is a student with a disability to be refused acceptance. In New York State, the SEA retains the responsibility for the charter schools because state legislation doesn't identify the charter as an independent LEA nor as part of a local LEA. Instead the student's district of residence is the responsible party.¹⁰ In the eyes of the NY State Education Department, New York City is one LEA and therefore may be the responsible party, unless the charter(s) have negotiated different arrangements with the Dept. of Ed.

Data collected by research organizations, as well as information contained within 'The New York Charter Center Report, The National Center on Educational Statistics (NCES) and the Charter School Dust Up'¹¹ (8) can be confusing to the readers.

All confirm that charter Schools are not out performing our public schools in ELA and Math. The Center for Research on Education Outcomes (CREDO) recently published results of a long term longitudinal study, using 2003-2008 information, found that "17% of charters performed better than traditional public

Overall, charter schools do not serve a similar ratio of students with disabilities as their neighboring schools do.

⁷ Charter School Management Organizations: Diverse Strategies and Diverse Student Impacts, J. Furgeson, B. Gill, et al, Mathematica Policy Research, and M. Bowen, A. Demeritt, et al, Center On Reinventing Public Education, November 2011, pgs. 1-5.

⁸ Ibid

⁹ http://www.ncd.gov/progress_reports/Aug202012#C2

¹⁰ Charter Schools and Students with Disabilities: Preliminary Analysis of the Legal Issues and Areas of Concern, 2012. Topic Brief prepared by the Center for Law and Education, pg. 24

¹¹ The Charter School Dust Up, M. Carnoy, R. Jacobsen, et. al, March 2005, co published Teachers College Press and the Economic Policy Institute

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schools, 46% showed indistinguishable growth and 37% showed growth below their traditional public school peers."¹² In fact, more students in traditional public schools showed advanced proficiency in 3-8 ELA than in charter schools.¹³

Yet as part of the CREDO study, researcher Margaret Raymond found that charter schools in NYC "perform at significantly higher level than charter schools as reflected in the CREDO national study: 51% produced significant gains in math but only 29% gain in reading."¹⁴ Based on this research, we see that charter schools produced no significant affect for 71% of their students in reading. In addition, Ms. Raymond's research highlighted the fact that "students who were in special education and English language learners experienced no significant gains or losses in charters."¹⁵

Possibly as a direct result of these findings, NY Sate is instituting changes in legislation that would require charter school authorizers to ensure that enrollment targets for students with IEPs are comparable to the number of students attending neighboring district public schools. Since discrepancies have been confirmed in so many different reports, it is a wonder to some members of the CCSE why a parent of a child with an IEP would place their child in a charter school.

In the past school year, 2011-2012, the Dept. of Ed. has held a number of hearings concerning new charter schools, charter school co-locations in public school buildings, and charter school expansions. Members of the CCSE have been informed of each school new school siting; grade truncations; grade expansions; and charter school opening. Although we are not required to attend these meetings, we are part of the community of interest. A quick scanning of the meeting notices indicates that there were on average, 7-8 such meetings per week. As volunteers it is difficult, if not impossible, to attend each and every public hearing.

CCSE members were provided with a copy of the Educational Impact Statement (EIS) but little or no opportunity to visit the schools, or speak with the program developers should the hearing be about a new charter school and its location. Reading the EIS has led us to believe that the EIS is nothing more than a building usage plan. There is no information about

Reading the EIS has led us to believe that the EIS is nothing more than a building usage plan. There is no information about the possible educational impact on the students who were attending the host schools or the programs proposed for the new charter school.

¹² Charter Schools and Students with Disabilities: Preliminary Analysis of the Legal Issues and Areas of Concern, 2012. Topic Brief prepared by the Center for Law and Education, pg. 24

¹³ The State of the NYC Charter School Sector 2012, <http://c4258751.r51.cf2.rackcdn.com/state-of-teh-sector-2012.pdf>

¹⁴ Charter Schools and Students with Disabilities: Preliminary Analysis of the Legal Issues and Areas of Concern, 2012. Topic Brief prepared by the Center for Law and Education, pg. 24

¹⁵ Letter from Johnson, July 2, 2012

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the possible educational impact on the students who were attending the host schools or the programs proposed for the new charter school. No reading or math programs are described. No efforts to exchange ideas or successful methods of teaching were proposed. The division of classrooms and other school space were the largest part of the EIS.

Deciding on the fate of schools with such sparse information is indicative of an odd approach to community planning by the Dept. of Ed.: Involve the community, but do not give them the necessary information. Involve the community, but create such time pressures that the community cannot give full attention to the task at hand. Either way, a large and seemingly uncaring bureaucracy has produced an arms-length relationship with the clients it claims to serve: Students and parents.

Recommendations

- Revise the building usage plan to ensure that appropriate space is identified in all schools for related service delivery and other individual services that respect the privacy of the student, as well as providing access to all common building spaces.
- As a minimum, schools should provide parents with an explanation of what services they provide, parental due process rights including the distinction of special education complaints vs. general school complaints and the CSE contact information.
- Require individual charter school boards to send any complaints received regarding provision of services to a student with an IEP to the appropriate Dept. of Ed. Committee on Special Education (CSE) for timely follow-up with a copy to the NYSED Office of Charter Schools.
- If a school accepts a child with an IEP and cannot fulfill all of the mandates, a letter should be sent to the parents informing them which services they do not provide and instructing them to follow-up with the CSE for a Related Service Authorization (RSA).
- Make a Service Delivery Report for charter schools available.
- Since the Dept. of Ed. sited timing as the reason for overbooking hearings in districts, there should be a limit on the number of proposed co-locations that can be considered in a district each year. This may involve legislative change.
- The Dept. of Ed. should not move forward with a Charter School project or expand the grade structure of a charter school until a full estimate of available space meets approval of the school SLT. This may involve legislative change.
- If a charter school plans to co-locate in a public school, the Educational Impact Statement (EIS) should provide information on how their programs will improve ELA and Math scores in the students they plan to serve, as well as the students in the co-located school.
- Collect rent based on the rates of the surrounding area where the charter school is sited.

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X. School Transportation

Busing left many parents and members of the CCSE wondering if the recurring issues and problems with special education busing will ever improve or be resolved. This school year began with new contracts and some new providers. It also began with widespread reports of problems from various NYC news media. Several elected officials and community leaders also took up the cause with frustrated and unhappy constituents pleading for assistance. The issues are the same. Drivers and matrons are not trained or adequately equipped to deal with the students. Buses are late or leave early causing children to miss instruction time. Time on the bus is exceedingly long. A number of students with serious medical issues were on buses for as long as three hours when returning from school. While there are no mandates requiring the Department to limit route time, the law does clarify it should be reasonable and most districts throughout the state try to make the longest of routes only one hour. Navigation devices have also been recommended to improve routing. Cameras have also been recommended as reports of bullying on the bus are constant and to ensure general quality assurance.

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In many ways parents were reminded of the chaos and concern when consolidation plans recommended by Alvarez and Marsal were implemented in 2006. In those instances, children were left unattended at bus stops; were instructed to be ready for the bus at 6:30 AM; were denied services and offered metro cards when the student was 5 years old or when the student had ambulation issues or when the student needed porter services (assistance down flights of stairs or over obstacles).

In an effort to correct serious problems with Consolidated, one of the contracted bus companies, the Dept. of Education revoked the company's contract. While well intended and applauded by parents and advocates, ending the contract created a spill back and a mad scramble to add students to existing bus routes.

Tangentially, we have heard, but as yet do not have corroboration, that two hundred (200) bus routes have been cut from the system. We have to presume that these cuts were the results of the new contracts and the Dept. of Ed. efforts to reduce costs. We believed that costs would naturally shrink as more students attended their zoned schools. In truth, we had expected reduced costs in transportation not because of budget cuts but because more students in articulating grades of kindergarten, sixth and ninth grades, would be attending their zoned schools and receiving either no transportation, transportation based on distance or metro cards.

Under NY State law all students "in like circumstances", in this case in need of transportation, must be offered busing to and from schools. We had envisioned a plateauing of costs, unless there was a countervailing growth in school bus services provided to private, parochial or charter school students.

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Recommendations

- Revise and update Chancellor's Regulations 801 which describes busing eligibility requirements.
- Revise and up-date bus driver training manuals.
- Revise and up-date bus matron training manuals.
- Schedule training 4 times per school year for both bus drivers and matrons.
- Review and implement recommendations contained in the CCSE Busing Report of 2005.

Revise and update Chancellor's Regulation 801 which describes busing eligibility requirements.

XI. Medicaid Reimbursements

Medicaid eligible students, in both general and special education programs are eligible for services through the SSHSP. Several of the mandated services provided to students with special education plans are eligible for reimbursement through SSHSP including but not limited to OT, PT, speech, and transportation.

Before the Dept. of Ed. or any school district, can bill for these reimbursable services, the Dept. of Ed. must obtain consent from the child's parent to bill Medicaid. That would require the release of the child's Medicaid number. Consent to billing is totally voluntary on the part of the child's parent. Medicaid in the schools is over 20 years old and provides LEAs with federal funds for eligible students receiving eligible services. This is in addition to funds from state and local education budgets. However, parents cannot be forced to consent to billing for Medicaid and the recent discovery of a million dollar fraud in billing referred to earlier, as well as major changes to Medicaid, leave many parents reticent about revealing her/his child's Medicaid number and other personal information.

Recommendations

- If a parent consents to allow the Dept. of Ed. to bill Medicaid for certain related services, parental access to Special Education Student Information System (SEIS) will enable parents to see their child's individual service report to ensure they receive the services eligible for School Supportive Health Services Program (SSHSP) while also preventing fraudulent billing activity.
- The Comptroller should audit the SEIS system to ensure providers are submitting appropriate documentation of services during working hours.

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For more information about the CCSE including the dates, times and locations of public meetings, please contact the CCSE administrative office at:

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