

Fall, 2012

The 2012-2013 Strategic Plan

by Jill Skarvold
**2012-13 MASE President and
 Director of Learner Support Services
 Moorhead Area Public Schools**

"Have a plan. Follow the plan, and you'll be surprised how successful you can be. Most people don't have a plan. That's why it's easy to beat most folks".

- Paul "Bear" Bryant, football coach.

In June, the MASE Board met for the annual retreat. Having that opportunity to work together, enabled the MASE Board to define the direction for the 2012-13 year by identifying priorities and strategies we would implement in order to focus on MASE's mission of building strong leaders who work on behalf of students with disabilities. Being clear about the work we need to accomplish positions MASE to be successful. In today's education world, there are so many competing forces and so many people vying for their position to be heard, that as an organization, we need to speak and act in ways that are clear and support our mission.

For the current year, the board identified 6 priority areas on which to focus: Legislative, Fiscal, Professional Development, MDE Relationships, Membership and Nominations. Each of these is related to building strong leaders who work on behalf of students with disabilities. The Board Focus document has been distributed to your MASE area representative who sits on the MASE Board and will be sharing this document with you.



Jill Skarvold

Underlying each area is the need to communicate information regularly and in multiple ways with members. Jan Oramsa, MASE Executive Director, will be working with different groups of people to ensure that communication in these areas gets out in variety of ways. In addition, the need to commit to more federal level work has resulted in the MASE board recommending that a bylaw change be proposed at the MASE annual meeting in October to consider creating a Federal Advocacy committee (see more information about Federal Advocacy on page 13 of this newsletter)

The work of special education administrators is complex and constantly evolving. MASE members often face difficult situations. Yet, through partnerships with other organizations who serve the needs of students, it is possible to

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Tips During Candidate Meetings

by **Brad Lundell**
MASE Lobbyist

With August's primary election behind us, all eyes are now focused on the 2012 general election, which will be held on Tuesday, November 6. The governor and the other constitutional officers—Secretary of state and state auditor—are not on the ballot this year, but all 201 members of the Minnesota Legislature will be and when added to the fact that all but one of Minnesota's congressional delegation will also be on the ballot, it's enough to make one's head spin.

I cannot stress enough how important it is for MASE members to make every effort to meet with legislative and congressional candidates during the campaign season. While it often doesn't seem that way with all the advertisements and campaign rhetoric flying around, meeting with candidates at this time of the year helps build strong working relationships that will help the eventual winners as they head off to either St. Paul or Washington, D.C. to assume their legislative responsibilities. While candidates may seem to only have the election on their minds, they know it is important to gain a greater understanding of the issues facing their prospective constituents.

It is especially important for special educators—administrators, teachers, and paraprofessionals—to make their voices heard in this process. There's little doubt that every candidate will have heard that special education is an important issue—some may go so far as to call it a “problem” in terms of funding—but few will know exactly why the issue has taken on so great an importance in the education funding debate. While it is impossible to expect legislative candidates to gain a firm grasp of all the issues facing special educators in a brief meeting held during campaign season, introducing yourself to candidates gives you an opportunity to provide them with at least an outline of your program and two or three of the most pressing issues you face in your professional life.

Here are a few tips to get the most out of your meetings with legislative candidates:

- Make that personal connection. When inundated with information, legislative candidates seek ways to connect the programs they learn about with a face and name. District 123's special education program becomes “Bob's program” or “Sue's program.” This will reap benefits later on as legislators often remember people they met personally on the campaign trail.
- Work with your school board and district administration to be a part of your district's legislative forum. A number of districts (or groups of districts) bring in legislators for “meet the candidate” nights during the election season. Make sure you are on the agenda for that evening and get the opportunity to voice your concerns as part of your district's legislative platform.
- Talk with other special education directors in your area and agree on a common message. No two districts are entirely alike, so consistency down to the “nth” degree is almost impossible to attain, but if you “can't sing the exact same tune, at least be on the same page in the hymnal.” The business of legislating is difficult enough and conflicting messages often give legislators and legislative candidates the impression that something is too complicated or too contentious to solve, which only serves to maintain the status quo. The status quo is never good enough and this is especially true when it comes to special education.
- Don't inundate candidates with too much information. Think of the “Three Bears” here and try to get things “just right.” Special education is very complicated and it doesn't much for a candidate to hit information overload. It's important to

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Special Education in Minnesota

by Jody Hauer
Evaluation manager
Office of the Legislative Auditor

The 2012 Legislature took a particular interest in special education. It directed Minnesota's Office of the Legislative Auditor (OLA), a nonpartisan office that serves the legislature, to evaluate special education in the state. This article is to inform you as members of the Minnesota Administrators of Special Education (MASE) about the evaluation and explain parts you may play.

The focus of the evaluation is on K-12 special education in the state. The specific subjects of research are:

- The population of students who use special education and how this has changed over time
- The costs of special education, how costs have changed, and factors driving those costs
- The extent to which Minnesota's requirements for special education exceed federal requirements, and whether changes to state requirements could reduce duplication of effort or improve effectiveness
- Variation in the delivery of special education by type of local education agency.

We in OLA plan to conduct the evaluation by analyzing data from the Minnesota Department of Education on students with disabilities and special education costs and performance. We are also interviewing numerous people involved with special education, including special education directors, education-related groups such as MASE, department officials; and parent and advocacy organizations such as PACER.

We plan to examine in greater detail the special education services in a small number of local education agencies. After reading past monitoring reports, we will visit these agencies, review a sample of individualized education programs, and interview interested parties. In each case, we will

interview representatives of education groups and parents.

Another aspect of the evaluation is an analysis of the state and federal requirements governing special education. As part of our analysis, we will convene a small number of focus groups in different parts of the state. The focus groups will help clarify effects of current regulations as well as likely outcomes if changes to the regulations were implemented.

A brief description of the evaluation and research steps we intend to take are on OLA's Web site at www.auditor.leg.state.mn.us/announce/Special%20Education.pdf. If you have questions regarding the evaluation, contact me at jody.hauer@state.mn.us or 651-296-8501.

The Office of the Legislative Auditor is the nonpartisan auditor of Minnesota state government. We examine the performance of public programs. Although a legislative commission instructs our office to undertake evaluations, and we report our results to the legislature when we complete studies, our evaluation reports are products of our office exclusively. We do not provide draft reports to legislators in advance of public release. Nor do we lobby for implementation of our reports' recommendations.

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Jan Ormasa

IMPACT is your newsletter and we encourage your input! If you have ideas or an article to share, please contact us at the MASE offices—651/645-6272 or email us at aranallo@mnasa.org.

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improve outcomes for students. It takes effort, but simply put, the priorities set by the MASE Board at the June meeting identify the work ahead for this year for building strong leaders who can meet these situations.

If you have questions about those priorities or the work planned, please don't hesitate to talk with the MASE Executive Director, Jan Ormasa, to me, or to any member on the board. MASE has a plan developed by board members. As Bear Bryant directs, "Follow it." We plan on doing so!

2012-13 MASE New Leaders Cohort

The MASE New Leaders' Cohort is a series of professional development workshops that provide opportunities for:

- newly employed Minnesota special education directors to explore the basic information needed for a successful first year
- mid-level leaders to enhance leadership skills either in preparation for advancement in leadership or for general skill development
- "newer" leaders who wish to refresh their training

We have changed things up a bit this year by making this training a cohort, and creating a two-day budget building workshop. Participants have an opportunity to meet other new leaders, experienced colleagues, state department staff and resource people from the special education community. Topics include federal and state special education law, finance and budgeting, state reporting, program topics and leadership. Continuing education credits are awarded.

Registration information is available online: www.mnase.org.



So Here I Stand Before You...

by **Jan Ormasa**
MASE Executive Director

It is an honor and a privilege to serve MASE as the new Executive Director. I want to thank Michelle Orcutt as the first Executive Director in the newly designed position and passing the leadership baton to me as the second one. I am very excited to commence this role with the mantra of creating a strong voice and presence or face of MASE. I look to you as to how I can best represent the mission of MASE to build strong leadership on behalf of students with disabilities and their families.

I have been reflecting on Melissa Schaller's last message from Simon Sinek regarding the Golden Circle (MASE Impact, Summer 2012). So I shall take the question of WHY did I seek out this leadership opportunity? For me, it all commences with the birth of my son Aaron in 1982. During the birth process, he suffered severe oxygen deprivation and almost died. As a result of his strong heart, he lived with multiple and profound disabilities. He was diagnosed with spastic quadreparesis, cortical blindness, seizure disorder and severe cognitive disabilities. Even though I was in the field of special education as a teacher for students with emotional and behavioral disorders, I was never prepared to be a parent of a child with disability. My husband and I were devastated and distraught. The pain was almost insurmountable. How were we going to help our son and what was to be the quality of his life? What was the purpose of his and our lives together? Aaron was our first-born. It was a soul-searching time for our family.

We were immediately referred to the St. Paul Developmental Achievement Center as well as to multiple medical physicians and providers such as neurologist, physiatrist, occupational therapists, physical therapists, speech language pathologists, and the list goes on. In my family I learned that you solve the problems by yourself. My husband and I were clearly not able to do this alone. Aaron taught our family about the power of

community. The community of educational, county/ social services, medical and health care resources was phenomenal. People came into our lives that we knew could teach us. I will never forget when the occupational therapist walked into our home with the director of the DAC. Within five minutes, she demonstrated how I could comfort and hold our son. I knew in that instance that I could learn so much about how to be Aaron's mother.



Jan Ormasa

Since our son Aaron was so medically fragile, my husband and I spent countless hours waiting for medical physicians. I heard so many personal stories about the lack of services in rural Minnesota and Wisconsin. We felt so grateful to have the multitude of resources in the Twin Cities. Aaron catapulted me into becoming politically active before I even knew what was happening.

I was approached by Sue Abderholden, then Executive Director of ARC and Betty Hubbard, parent of child with disability and active in St. Paul Schools, to meet with then Governor Rudy Perpich and hopeful contender for governor Cal Ludeman in separate meetings. I asked Sue why. She shared that there was a bill about supporting families with children with disabilities that needed Governor Perpich's support. So we invited Governor Perpich into our home to meet Aaron who was two years old and his baby sister Leah. I shall never forget Governor Perpich's questions to me about whether Aaron would ever walk and talk. I almost burst into tears, as I knew he never would. But the message my husband and I wanted to share with the governor, was for Aaron to be able to have a quality of life with community-based supports so he could remain in our home. As I shared, we learned about the importance of community services that could come into our home to support our learning and

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help to build Aaron's skills as best possible. Strangely enough, I just learned from Sue Abderholden that after Governor Perpich walked out of our home, he said to Sue "you have your bill". I was called upon to testify before legislative committees, where I appeared before them with my son in a small wheelchair. I shared our personal story in pursuit of Aaron's community and quality of life.

Aaron died after five and a half years prior to entering the St. Paul Public Schools where we advocated for an inclusive kindergarten opportunity. So I ask myself "what is Aaron's legacy?" The answer lies in the mission of advocating for students with disabilities to have a quality of life that we can envision for their futures. Here I stand before you, with the MASE mission.

The forecast for this next legislative session will require tremendous involvement from all of us as directors, coordinators, principals, and teachers. We have before us at the federal level the reauthorization of the Elementary and Secondary Act along with the reauthorization of

the Individuals with Disabilities Education Act. In addition, we have state challenges of changes in legislators at all levels after the November elections. We must build strong and informative relationships with our legislators to advocate on behalf of our students with disabilities. I say to you that this may entail some risk taking on your parts to go out and tell your personal stories about our students and their challenges as well as their successes. We all must rally to insure that we have adequate funding for our students. We all must rally to build the integrity and credibility of our organization to have strong voices from the field. I hope to be a part of building this Executive Director role into a strong voice for "we" in our work together in MASE.

I commit to serve our students with disabilities. I commit to serve the MASE organization on behalf of students with disabilities. I urge us all to become engaged and involved in the MASE mission and work so we all are a strong "we".

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get the basic information to the candidate without getting too bogged down in minutiae.

- Work to fit their schedule. If you can't get on the agenda for your district's forum, you may still want to make contact with a candidate. Candidates are busy, but they are also cutting across their districts pretty much every day. Try to find out their schedule and ask if there's a way you can fit into their schedule when they are in your vicinity. Look for candidate forums sponsored by groups other than your school district (local chamber of commerce, League of Women Voters, city or county government) and show up and introduce yourself. Give them a business card and a little information about your program. You may not get the time you'd like, but you'll at least get your foot in the door.

I'm available during the campaign season.

Things are heating up in terms of the development of legislative proposals for the 2013 legislative session, but I'm never averse to jumping in the car and heading out to members' districts or spending time on the phone to discuss how to best use your resources to meet and inform legislators and legislative candidates. I can be reached at 612-220-7459 or brad.lundell@schoolsforequity.org if you'd like to enlist my aid in getting out your message.

**MASE builds strong leaders
who work on behalf of
students with disabilities.**

— Mission approved by the MASE
Board of Directors, June 2008

Introducing the 2012-13 MASE Committees

2012-13 Professional Development Committee

Chair: Carla Nohr Schulz, Director of Special Services, Farmington Area Schools

- D Pauline Bangma, Rum River SPED Coop
- D Christina Bemboom, Little Falls Community Schools
- D Suzanne Busacker, Mid-State Edu. District
- D Nan Records, Sherburne-N. Wright Coop
- E Tammy Stahl, SW/WC Service Coop
- F-1 Sarah Mittelstadt, Southern Plains Edu. Coop
- F-1 Julie Ladwig, Waseca Schools
- F-2 Jill Kenyon, Goodhue County Edu. District
- F-2 Billie Ward, MN State Academics
- G Marcy Doud, W. St. Paul-Mendota Hgts-Eagan Schools
- G Karen Joyer, N. St. Paul-Maplewood-Oakdale School District
- G Mary Kreger, Rosemount-Apple Valley-Eagan Schools
- G Paula Krippner, Rosemount-Apple Valley-Eagan Schools
- G Renae Ouillette, Lakeville Area Schools
- G Sarah Pratt, Farmington Area Public Schools
- G Melissa Schaller, Int. School District 917
- G Liz Shopbell, NE Metro 916 Int. District
- H Kathleen Bushman, Osseo Area Schools
- H Tricia Denzer, Belle Plaine Public Schools
- H Joy Fredrickson, Osseo Area Schools
- H Barbara Jo Stahl, University of St. Thomas
- H Karen Kennedy, Innovative Special Edu. Services
- H Kathy McKay, Retired
- H Janet Pauley, Montgomery-Lonsdale Schools
- H Cynthia Raynor, Richfield Public Schools
- H Jake Timm, New Prague Area Schools

2012-13 Nominating Committee

Chair: Melissa Schaller, Director of Special Education, Intermediate School District 917

- C Shannon Erickson, Fergus Falls SPED Coop
- D Janine Dahms-Walker, St. Cloud State University
- E Tammy Stahl, SW/WC Service Coop
- H Tricia Denzer, Belle Plaine Public Schools
- G Marcy Doud, W. St. Paul-Mendota Hgts-Eagan Schools
- G Nicole Halabi, Columbia Hgts. Public Schools

2012-13 Strategic Plan Committee

Co-Chair: Kim Gibbons, Executive Director, St. Croix River Edu. District

Co-Chair: Teresa Ostlie, Director of Special Education, SW/WC Service Coop

- B Reggie Engebretson, Northland SPED Coop
- C Rebecca Patience, Alexandria School District
- D Douglas Millaway, West Central Edu. District
- G Paul Lee, Stillwater Area Public Schools
- H Tricia Denzer, Belle Plaine Public Schools
- H Bill Waters, Carver-Scott Edu. Coop
- H Ellen Voigt, Eastern Carver County Schools

2011-12 Legislative Committee

Co-Chair: Melissa Schaller, Director of Special Education, Intermediate School District 917

Co-Chair: Darren Kermes, Executive Director, MN River Valley/Carver Scott Edu. Coop

- A Jennifer Worshek, N. Lakes SPED Coop.
- C Marcy Matson, Detroit Lakes Schools
- D Kim Gibbons, St. Croix River Edu. District
- D Nan Records, Sherburne-N. Wright Coop
- E Tish Rops, SW/WC Service Coop
- F-1 John Klaber, Mankato Area Schools
- F-2 Cherly Johnson, Goodhue County Edu. District
- F-2 Gary Lewis, Northfield Schools
- F-2 Billie Ward, MN State Academics
- G Marcy Doud, W. St. Paul-Mendota Hgts-Eagan Schools
- G Mary Garrison, St. Paul Schools
- G Mary Kreger, Rosemount-Apple Valley-Eagan Schools
- G Sandy Strand, Innovative SPED Services
- G Dave Thacker, Centennial School District
- H Kathleen Bushman, Osseo Area Schools
- H Cecelia Dodge, Cecelia Dodge & Assoc LLC
- H Penny Kodrich, Edina Public Schools
- H Marsha Polys, Waconia Public Schools
- H Bill Waters, Carver-Scott Edu. Coop
- H Scott Hare, Shakopee Public schools

2011-12 Member Services Committee

Chair: Cheryl Johnson, Executive Director, Goodhue County Education District

- E Mary Palmer, SW/WC Service Coop
- F-1 Anna Fleischman, MN Valley Edu. District
- F-2 Keith Erickson, Albert Lea Area Schools
- G Stephanie Corbey, Burnsville-Eagan-Savage Ind. School District
- G Nicole Halabi, Columbia Hgts. Public Schools
- G Emily Johnson, AFSA High School
- H Karen Kennedy, Innovative SPED Services
- H Kathy McKay, Shakopee Schools

Visit the MASE Website!

The MASE Website is a resource for you! It has been updated with 2012-13 board and committee lists. You'll also find other member resources including the MASE calendar, publications, model contracts and more...

www.mnase.org

Everything In Its Place: The Impact of Independent Educational Evaluations on Special Education Disputes

by Nancy E. Blumstein,
Attorney and
Christian R. Shafer,
Attorney; Ratwik, Roszak & Maloney, P.A.

Responding to requests for independent education evaluations ("IEEs") is a regular part of any Special Education Director's job. Knowing the proper role of IEEs can place a school district in a better position in any special education dispute.

School Districts Only Have to Pay for IEEs in Certain Situations

School districts are only required to pay for IEEs in two circumstances: (1) when an IDEA hearing officer requests the completion of an IEE as part of a due process hearing or complaint; and (2) if a parent requests an IEE conducted at district expense. See 34 C.F.R. § 300.503(b) and (d). School districts must always pay for an IEE requested by an IDEA hearing officer. On the other hand, there are two important limits on a district's obligation to pay for an IEE requested by a parent.

First, parents are only entitled to an IEE conducted at district expense if they disagree with an evaluation previously conducted by the school district. 34 C.F.R. § 300.502(b)(1). A parent is not entitled to an IEE at district expense if there is no disagreement with the evaluation. See *Gwinnett County School District*, 112 LRP 18864 (GA SEA January 23, 2012). Nor are parents entitled to an IEE at school district expense if they desire an additional source of information. *Id.* (citing *R.L. v. Plainville Bd. Of Educ.*, 363 F.Supp. 2d 222 (D. Conn. 2005)). For example, a parent's disagreement with certain statements contained in an evaluation report would not constitute a disagreement with the evaluation, unless those statements formed part of the evaluation results or conclusion.

Parents sometimes request IEEs as part of a special education dispute that does not involve the student's evaluation. Because parents are not entitled to an IEE at district expense unless

they disagree with a school district's evaluation, districts need to determine whether the parent actually disagrees with an evaluation before agreeing to pay for an IEE. As part of this determination, the district may ask parents why they disagree with the last evaluation. 34 C.F.R. § 300.502(b)(4). Parents, however, do not have to provide a detailed explanation. *Id.* If the parents disagree with the evaluation, districts cannot refuse to provide the IEE, or delay their response to the IEE request, based on the parent's explanation or lack thereof for the reasons why they disagree. *Id.*

That said, in determining whether a parent actually disagrees with a district's evaluation, a school district may consider comments that a parent has made at a team meeting. A district could also reach a conclusion as to the parent's purpose in requesting an IEE based on the type of IEE requested. For instance, in a recent dispute handled by our office, a parent did not question the results of the district's educational evaluation on her daughter; but requested an IEE from a medical practitioner concerning the student's underlying medical condition. In this case, there was no disagreement between the parties concerning the student's medical condition. In fact, the school district's evaluation accepted and incorporated the medical information that the parent had provided into the evaluation summary. Given the lack of disagreement between the parties regarding the student's medical condition, the district denied the parent's request for an IEE because there were no legal grounds for the request.



Nancy Blumstein



Christian Shafer

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Second, parents are only entitled to obtain one IEE at public expense for each evaluation with which they disagree. 34 C.F.R. § 300.502(b) (5). Thus, before responding to a request for an IEE, school districts should compare the date of the last evaluation with the dates of any other IEEs the parent has requested. If the district already has paid for an IEE to respond to the parent's disagreement with the current evaluation, the district is not required to pay for a second requested IEE.

School Districts May Require IEEs to Conform to Certain Criteria

Parents' rights to IEEs conducted at district expense are not unlimited. The IDEA allows school districts to an IEE to meet specific criteria, including the cost, location, and qualifications of the evaluators, so long as the district applies the same criteria to its own evaluations and the criteria are consistent with the parent's rights to obtain an IEE. 34 C.F.R. § 300.502(e)(1). For example, if the district requires its evaluators to hold graduate degrees in their respective fields, the district may require that all evaluators selected to participate in the IEE hold similar degrees. See *Id.*; See also Letter to Anonymous, 22 IDELR 637 (OSEP 1995) (identifying cost as an allowable IEE criteria); See also Fleetwood Area School District, 111 LRP 51069 (SEA 2011) (same).

School districts may also require parents to select evaluators from lists prepared by the school district. See Letter to Young, 39 IDELR 98 (OSEP 2003). In order to impose such a requirement, however, the list must be exhaustive. In other words, it must contain every individual within the geographic area that meets the district criteria to perform such evaluations. *Id.* Thus, it might not be cost effective for districts in heavily populated areas to impose such a requirement. Moreover, the "right to an IEE belongs to the parent." In re: [Student] v. ISD No. 621, Mounds View Public Schools, MDE File No. 650 (November 8, 2005). Therefore, parents, not school districts, have the ultimate authority to choose an evaluator. If a list contains multiple qualified evaluators, the parent must be allowed to select the evaluator from that list. Letter to Young, 39 IDELR 98.

"Other than establishing these criteria, a [school district] may not impose conditions or timelines

related to a parent obtaining an IEE at [district] expense." Letter to Parker, 41 IDELR 155 (OSEP 2004). For instance, the OSEP has found that a school district cannot prohibit an individual from serving as an evaluator because of the individual's association with private schools, affiliation with parent advocacy organizations, or history as an expert witness against school districts. Letter to Petska, 35 IDELR 191 (OSEP 2001). The OSEP determined that such criteria were unrelated to the purpose of the IEE and only served to undermine the parent's right to an IEE. *Id.* For similar reasons, the OSEP found that a school district cannot require evaluators to possess "recent and extensive experience in the public schools." *Id.*

As a school district cannot impose ad hoc restrictions on IEEs or a parent's selected evaluator, the district must carefully develop the criteria that it places on its own evaluations instead. Completing this process in a thoughtful and specific manner helps ensure that only knowledgeable, qualified individuals are selected to conduct IEEs. Developing thorough and appropriate evaluation criteria also helps limit the cost of IEEs. On the other hand, failing to develop thorough and appropriate evaluation criteria gives up the district's only real say in the IEE process, and opens the door to expensive, inaccurate, or one-sided evaluations.

It is important to note that a district must also give parents the opportunity to demonstrate unique circumstances that justify conducting an IEE that does not meet the district's criteria. Letter to Parker, 41 IDELR 191. For example, if the district requires parents to use evaluators from a list it has prepared, and there is no one on the list who is qualified to perform a particular type of evaluation, the district must waive that requirement. Letter to Young, 39 IDELR 98. Thus, no matter how well the district drafts its criteria, there is always a chance that it will have to permit a parent to handpick a particular evaluator or exceed its stated cost limits. See Letter to Anonymous, 111 LRP 13073 (OSEP 2010).

Responding to Requests for IEEs

IEEs can have a significant impact on the

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outcome of a special education dispute. If a request for an IEE is denied improperly, or if a district imposes inappropriate restrictions on the IEE, the district could face liability under the IDEA. If such a request is granted, the outcome of the IEE is admissible in any ongoing or subsequent due process hearing. Thus, it is in the school district's best interests to ensure that they respond properly to a request for an IEE.

Once a school district receives a request for an IEE, the district must provide the parents with information about where an IEE may be obtained, as well as the criteria that the district imposes on IEEs. 34 C.F.R. § 300.502(a)(2). IEP teams should be instructed to provide this information to parents as soon as an IEE is requested. Districts should also instruct IEP teams to inform district administration whenever they receive a request for an IEE. A request for an IEE is an indication that there is disagreement between the parent and the IEP team. Notifying an administrator about such disagreement alerts the district of the potential for an IDEA complaint or due process hearing and may facilitate early resolution of the issue.

Once the district has received a request for an IEE, the district must either: (1) grant the request and pay for the IEE; or (2) initiate a due process hearing to defend its evaluation or challenge the IEE requested by the parent as not meeting its criteria. 34 C.F.R. § 300.502(b)(2).¹ The district must make its decision "without unnecessary delay." *Id.*

Parents often request IEEs during an IEP meeting. However, considering the impact that such a request may have on the district, it might not be appropriate to respond to such a request during the team meeting. Instead, districts are better served by requesting that the parent provide it the request in writing, along with the grounds upon which the independent evaluation is being requested. After the Parent's request is received, the district should respond to it, in writing, through a prior written notice. Such notices should be drafted to clearly set forward the basis for the Team's decision and to reflect a careful consideration of the request based on a review of relevant facts and law. In practical terms, unless an IEE is being requested for an

improper purpose, a school district will likely honor a parent's IEE request. The choice to pursue a due process hearing to defend an evaluation is a cost prohibitive option for most school districts. This is especially true because most insurance policies will not cover defense costs of a due process hearing that is requested by a school district. Finally, even in a hearing situation, a school district's rejection of a parent's request for an IEE may be rendered futile by the presiding administrative law judge, who, in most cases, will grant the parent's request for an IEE, but leave the cost responsibilities for this evaluation open, to be later determined by the outcome of the hearing.

IEP Teams Are Required to "Consider," Not Adopt, the Results of an IEE

Regardless of whether an IEE was obtained at district expense or paid for by the parent, a school district must "consider" the results of the evaluation when programming for the student. 34 C.F.R. § 300.502(c)(1). The word "consider" is not synonymous with the word "incorporate." *K.E. v. Independent School Dist. No. 15*, 647 F.3d 795, 806 (8th Cir. 2011). Instead, a school district properly "considers" evaluations when an IEP team discusses them at a meeting, even if it does not ultimately agree with their findings. See *Evans v. Dist. No. 17*, 841 F.2d 824, 830 (8th Cir. 1988). Actually incorporating some, but not all, of an evaluation's recommendations is strong evidence that the team properly "considered" the IEE. *K.E.*, 795 N.W.2d at 806 (citing *G.D. v. Westmoreland Sch. Dist.*, 930 F.2d 942, 947 (1st Cir. 1991)). Moreover, team meeting notes and thoroughly written Prior Written Notices which specifically mention an IEP team's consideration of IEE results can also provide significant proof that a team met its burden to consider the results of a parentally obtained evaluation.

In conclusion, each request for an IEE presents a unique set of facts that school districts should consider on a case-by-case basis. This article is only intended to address some of the more common IEE issues that arise. In addition to reviewing this article, it is a good idea for a school district to consult with its legal counsel, prior to making any final decisions to grant or deny a request for an IEE.

2012 MASE FALL LEADERSHIP CONFERENCE OCTOBER 24-26, 2012 CRAGUN'S CONFERENCE CENTER, BRAINERD

In our global community, it is more essential than ever that our school leaders have the knowledge, skills, and dispositions to practice with and on behalf of people from all different backgrounds and perspectives. As we strive for equity among our students, staff, families, and wider community, we envision a time when all students will achieve high standards, regardless of their circumstances.

Effective school leaders move systems toward realizing this goal by growing a strong culture of sound instruction and standards supporting individual behavior and organizational practices. Join your colleagues this fall and explore the dynamics of difference!

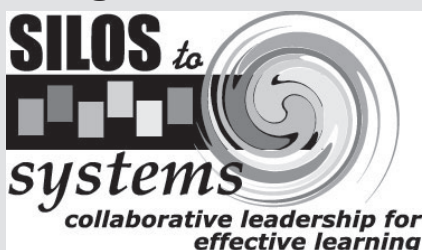


Plan to participate in this year's fundraising event benefitting MNSELF. The *Ultimate Superhero Universe Wine Tasting* will be held on Wednesday evening and a *Pumpkin Patch Bash and Silent Auction* on Thursday evening. Your donation to the auctions will provide professional development support for special education leadership.

Curriculum Leaders of Minnesota (CLM) in association with the Minnesota Association of School Administrators (MASA) presents...

2012 CLM Fall Conference November 14-16

Cragun's Resort, Brainerd



Join us this fall and explore frameworks for collaboration leading to improved education systems with keynote

presenter Andy Hargreaves, renowned author and speaker on educational change. Other invited facilitators from the field will present framework for change that integrates teacher professionalism, community engagement, government policy and accountability. There will be opportunities to network with colleagues to improve the efficiency and effectiveness of your

education community. Leave with a plan to bring the message back to your home district or school along with resources for implementation, including Andy Hargreaves and Michael Fullan's book *Professional Capital, Transforming Teaching in Every School*.

If you are new curriculum leader, be sure to attend "Curriculum 101" on Wednesday afternoon. This three-hour session is free to participants attending the fall conference, but you must register to attend!

Who should attend:

- Curriculum Directors, Leaders and Coordinators
- Superintendents and Assistant Superintendents
- Building Administrators
- Special Education Directors
- Teachers in Leadership Roles

You will want to be at this event with your team! Registration information is available on the MASA Website.

REGISTER TODAY!

Little Falls' Alignment Journey



Christina Bemboom, Director of Special Education and
Barbara Muckenhirn, Director of Teaching & Learning
Little Falls Community Schools

To state the obvious, good instruction is good instruction. Understanding that every district has a unique journey to improving instructional resources and programming, this is a bit about our journey in Little Falls that may parallel some experiences of other districts. The district needed to align more closely to required standards, but wanted to avoid moving through steps of alignment that would have no meaning to teachers or have any actual impact on instruction. We could not align to standards unless we had a clearer picture of what our actual curriculum was. Therefore, we had to take a step back in order to move forward.

The first step was to identify the most essential vocabulary at each grade level, in each subject and secondary course. Those essential vocabulary words are terms and concepts that students really must have a solid understanding of at the end of the course or grade level. Teachers pondered the question, “What are the essential vocabulary and essential outcomes that we are striving for in each subject area and at each grade level?” Our experience had been that the answer to this question in each situation was not as clear as it needed to be in order for teachers to prioritize instruction. Answering the question allows teachers to discuss the most critical learner needs for grade level or course success. This step leads to discussion of how and where standards are addressed, as well as allowing us to determine if there are critical standards that are not addressed in our system.

Once the vocabulary lists are completed, each term is reviewed for its alignment, or connection, to standards or benchmarks.

The second step is to identify five essential learner outcomes for each grade level and course and align the essential vocabulary terms and concepts to those essential outcomes. Once that is done, the essential outcomes are aligned to standards and benchmarks. There are then subsequent steps and teachers can begin asking, “What are the common assessments across classrooms to assess progress toward these essential outcomes?” If we know the learning targets we are striving for and where students are relative to those targets, we know that we can improve and focus our instructional efforts to arrive at those targets.

So what does this mean for special education? Our intention is that, as we are clearer about our instructional targets that are grounded in state standards and benchmarks, our IEP goals should support those instructional targets or provide requisite skills for students to access or approximate those targets.

The process described here has allowed us to begin to focus our discussion on how to create a continuum of services that supports student learning across the district instead of focusing the discussion on which silo is responsible for which students. The silo mentality provides educators with a degree of comfort if that is the system they are most familiar with, but it does not provide assurances of common learning goals for students, nor does it provide any indication of how well those goals are achieved. Increasing achievement for all is a noble and high goal for which to strive, but we will not get closer to it without a clear plan for what students need to know most and how we will know when they know it. This process provides much needed clarity about what the essential learning targets are so that special education, as well as general education, teachers have better information when designing instruction and providing support.

MASE Federal Advocacy

by **Melissa Schaller**

MASE Past President, MASE Legislative Committee Co-Chair and Director of Special Education Intermediate School District 917



Melissa Schaller

At our board meeting in June a proposal was brought forth and initially approved to change our bylaws. It will now move forward for approval by the membership at our annual meeting to be held at the Fall Leadership Conference. The proposal adds, in Article VIII – Committees, a Federal Advocacy Committee. This

committee, chaired by the President-Elect, is charged with developing an annual federal legislative platform for approval by the board. Additionally, the committee will respond to proposed legislation, regulation and/or rules at the federal level.

Now, more than ever, it is important that we have a clear understanding of the issues at the forefront in our field at the federal level. More importantly, we must have a clear voice regarding the issues that impact special education.

The work proposed formally through the bylaw change, is work that has been occurring



Federal Advocacy team in Washington, D.C.

informally for many years. Each July MASE representatives attend the annual CASE Educational Seminar in Washington, D.C. and spend time lobbying our legislators. Additionally, MASE has had representatives lobby with superintendents in Washington, D.C.

This year, MASE had the opportunity to send two individuals to Washington, D.C. to lobby with MASA. One of our MASE representatives on the MASA board, Darren Kermes, and past president, Melissa Schaller, traveled with superintendents from September 11 - 14.

SAVE THE DATE!

CASE 23rd Annual Conference

November 1-3, 2012

Scottsdale, AZ

Three days of GREAT presentations focusing on innovative ideas, programs, and practices for students with disabilities in the following topic areas: common core standards, refined measures of teacher effectiveness, assistive technology & universal design for learning, standards-based IEPs, improved statewide assessments, Response to Intervention, effective educator positive behavior supports, scientifically - evidence based curriculum supports, and more!

Register online: www.casecec.org

Action with Authentic Leadership: Let's Do It Together!



MASE Calendar

2012

Sunday - Tuesday, September 30-October 2
MASE Fall Conference
Madden's Resort & Conference Center, Brainerd

Wednesday, October 24
MASE New Leaders Cohort
Craguns, Brainerd

Wednesday, October 24
MASE Board of Directors Meeting
Craguns, Brainerd

Wednesday - Friday, October 24-26
MASE Fall Leadership Conference
Cragun's, Brainerd

Thursday-Saturday, November 1-3
CASE Annual Conference
Scottsdale, AZ

Wednesday - Friday, November 14-16
CLM Conference
Cragun's, Brainerd

Thursday - Friday, November 22-23
Thanksgiving Holiday

Wednesday - Thursday, December 5-6
MASE New Leaders Cohort
TIES Bldg, Roseville

Thursday, December 6
MASE Board of Directors Meeting
TIES Bldg, Roseville

2013

Wednesday, January 16
MASE New Leaders Cohort
MASE Offices, St. Paul

Wednesday, March 13
MASE New Leaders Cohort
Minneapolis Marriot NW, Brooklyn Park

Wednesday, March 13
MASE Board of Directors Meeting
Minneapolis Marriot NW, Brooklyn Park

Thursday - Friday, March 14 - 15
MASA/MASE Spring Conference
Minneapolis Marriot NW, Brooklyn Park

Wednesday, May 8
MASE New Leaders Cohort
Maddens, Brainerd

Wednesday - Friday, May 8 - 10
MASE Best Practices Conference
Maddens, Brainerd