



Bylaws

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Introduction

The following are bylaws for the South Carolina Advisory Council for Educating Students with Disabilities (ACESD). The bylaws are consistent with the South Carolina Open Meeting requirements and articulate the purpose and functions of the Council outlined in the Individuals with Disabilities Education Act (IDEA) and South Carolina statutes and special education regulations. These bylaws are supported by operating procedures found in a separate ACESD Procedures Guide.

Council Name

The name of the Council shall be the Advisory Council for Educating Students with Disabilities (ACESD) (hereafter referred to as the Advisory Council).

Authority

The establishment of the Advisory Council is in accordance with 34 C.F.R. § 300.167 of IDEA Part B Regulations, S.C. Code Ann. §§59-36-10 and 59-35-20 and the State Board of Education Regulation 43–243.

Purpose

The Advisory Council is a state-level committee mandated by federal and state law. The purpose of the Advisory Council shall be to advise the South Carolina Department of Education (SCDE) State Special Education Director/Office of Special Education Services (OSES) regarding special education and related services for students with disabilities and their families.

Membership

The governor or designee shall make appointments and reappointments to the Advisory Council. The Advisory Council membership shall be representative of the state's population and composed of individuals involved in, or concerned with, the education of students with disabilities. Parents of students with disabilities and individuals with disabilities shall compose a majority (51 percent or more) of Advisory Council membership.

No person shall be excluded or discriminated against in serving as a member of the Advisory Council by reason of race, creed, color, gender, age, natural origin, religion, sexual orientation, or disability. Interpreters and other necessary services will be provided at all Advisory Council meetings for members and/or participants upon advanced notification to the OSES.

Membership under the IDEA, 34 C.F.R. § 300.168 (a) (1)-(11):

Advisory Council membership shall include representation from the following constituencies:

- A. Parents of students with disabilities (ages birth through 26);
- B. Individuals with disabilities
- C. Teachers
- D. Institutions of higher education that prepare special education and related services personnel

- E. State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act
- F. Administrators of programs for children with disabilities
- G. Other state agencies involved in the financing or delivery of related services to children with disabilities
- H. Private schools and public charter schools
- I. Vocational, community, or business organizations concerned with the provision of transition services to students with disabilities
- J. State juvenile and adult corrections agencies
- K. Child welfare/foster care agency.

Preschool Committee Representation

South Carolina State law requires that the Advisory Council include permanent representation by state agencies providing services for preschool children with disabilities. State law defines those agencies as:

- A. The South Carolina Department of Disabilities and Special Needs
- B. The South Carolina Department of Mental Health
- C. The South Carolina Department of Health and Environmental Control
- D. The South Carolina Department of Social Services
- E. The Continuum of Care
- F. The South Carolina Department of Education
- G. The South Carolina School for the Deaf and the Blind
- H. The South Carolina Commission for the Blind

In addition, state law requires the Advisory Council to include the chairperson of the Interagency Coordinating Council (ICC) (S.C. Code Ann. § 59-36-10 (3)).

Terms of Membership

The term for each member shall be three years. Members may serve a total of two terms (6 years.)

Member Responsibility

Advisory Council member duties and responsibilities shall be detailed in the Advisory Council Procedures Guide.

Attendance

Advisory Council members are expected to attend meetings for the length of their tenure to represent their constituency, organization, and/or agency to enhance the effectiveness of the Advisory Council. Attendance at no fewer than 50 percent of scheduled meetings should be maintained to provide consistency and maximize effectiveness. Should a member be unable to participate in a meeting, it is the member's responsibility to notify the OSES staff liaison of his/her anticipated absence. Notification is requested as early as possible, but no later than forty-eight hours preceding the meeting, with the exception of emergencies/illness. Members may send a designee or substitute to a meeting they cannot attend.

Office of Special Education Services (OSES) Responsibilities

- A. The OSES special education director serves in an ad-hoc capacity (nonvoting member) and supports the Advisory Council in carrying out its functions. The OSES director ensures the work of the Council is supported by OSES staff including but not limited to assigning an OSES staff liaison as a lead to ensure the work of the Council is supported. OSES responsibilities shall be detailed in the Advisory Council Procedures Guide. The director, or his/her designee reports progress on the State Performance Plan (SPP), Annual Performance Report (APR), level of determinations, and provides an annual “State of the State” report.
- B. When the State sets its risk ratio to determine significant disproportionality, the standards must be based on advice from stakeholders, including the State Advisory Panel. (34 CRF § 300.646)
- C. After deleting any personally identifiable information, the SCDE must transmit the findings and decision from due process hearings to the Panel (34 CRF § 300.513).

Executive Committee

The Executive Committee shall consist of the chairperson, the vice-chairperson, secretary, the chairperson(s) of any existing committees, and any additional members appointed by the chairperson.

The duties of the Executive Committee shall include:

- A. Overseeing the nomination process for membership
- B. Assisting the Chairperson in developing meeting agendas and the calendar of meetings
- C. Assisting the OSES staff liaison in developing an annual report
- D. Reviewing the bylaws as needed
- E. Reviewing policy and procedures as needed
- F. Facilitating new member orientation
- G. Representing the Advisory Council between meetings
- H. Directing the business of the Advisory Council
- I. Documenting meeting minutes

Officers

The Chairperson shall serve as the presiding officer of the Advisory Council and Executive Committee.

The Vice-Chairperson will assume all duties of the Chairperson in the absence of the Chairperson and his/her term shall run concurrently with that of the Chairperson.

The Secretary shall work with the OSES to ensure the proper notification of all Advisory Council meetings and the accurate and proper recording of the minutes for all full Advisory Council meetings and Executive Committee meetings. In addition, the secretary shall keep a record of attendance for each full Advisory Council.

Elections

The Advisory Council elects the Chairperson and the Vice-Chairperson, and the Executive Committee appoints the Secretary.

The Chair of the Advisory Council shall appoint from among the Council members, a Committee on Nominations, to include the appointment of a chair, subject to the consent of the Executive Committee on or before the second quarterly meeting. Its membership will not exceed three. The Committee on Nominations will announce to the membership an open window of dates whereby it will accept applications for nomination of Chair and Vice Chair on or before the third quarterly meeting. The Committee on Nominations will offer to the Council a slate of candidates for Chair and Vice Chair one week before the fourth and last quarterly meeting of the year.

Council Committees

A. Advisory Council Committees

The chairperson, in consultation with the Executive Committee, shall establish committees to carry out the work of the Advisory Council and to respond to needs identified by the full Advisory Council. The chairperson of the Advisory Council shall appoint up to two chairpersons for each committee.

Committee chairpersons have the authority to call individual meetings of their respective committees and may invite individuals outside the Advisory Council to serve in a resource capacity to the committee. (See Advisory Council Procedures Guide).

B. Preschool Committee

A standing Preschool Committee shall exist as required by state law to address educational programs and services for preschool children with disabilities (S.C. Code Ann. § 59-36-10 (3))

Committee chairpersons have the authority to call individual meetings of their respective committees and may invite individuals outside the Advisory Council to serve in a resource capacity to the committee. (See Advisory Council Procedures Guide).

Members of the Preschool Committee, pursuant to state law, shall be selected by majority vote of the Advisory Council. A staff member from the South Carolina Department of Education will be assigned to provide assistance to the Council and the subcommittee as needed.

Members of the Preschool Committee shall include:

- a. Chairperson of the Interagency Coordinating Council,
- b. Chairperson of the Advisory Council (or designee),
- c. The South Carolina Department of Disabilities and Special Needs,
- d. The South Carolina Department of Mental Health,
- e. The South Carolina Department of Health and Environmental Control,
- f. The South Carolina Department of Social Services,

- g. The Continuum of Care,
- h. The South Carolina Department of Education,
- i. The South Carolina School for the Deaf and the Blind,
- j. The South Carolina Commission for the Blind,
- k. At least two parents,
- l. One representative from daycare programs,
- m. One representative from HeadStart,
- n. Two local education agency representatives

Functions & Duties of the Council

Specific responsibilities of the Advisory Council include:

- A. Advising the SCDE of unmet needs within the state in the education of students with disabilities. 34 C.F.R. § 300.169
- B. Commenting publicly on rules and/or regulations proposed by the state regarding the education of students with disabilities. 34 C.F.R. § 300.169
- C. Advising the SCDE in developing evaluations and the reporting of data to the United States Secretary of Education as required. 34 C.F.R. § 300.169
- D. Advising the SCDE in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the IDEA. 34 C.F.R. § 300.169
- E. Advising the SCDE in developing and implementing policies related to the coordination of services for students with disabilities. 34 C.F.R. § 300.169
- F. Consulting with the State if the State wishes to request a waiver of the requirement regarding supplementing and not supplanting with Part B funds under 34 C.F.R. §300.164. The Advisory Council will assist the State in determining that a free appropriate public education is currently available to all eligible children with disabilities in the State.
- G. Providing recommendations and comments to the OSES regarding the SPP and APR.
- H. Advising the SCDE and State Board of Education in developing a comprehensive services system for special education and related services to preschool children with disabilities as required by state law. (S.C. Code Ann. § 59-36-30)

Meetings

The full Advisory Council shall meet at a minimum four times a year. The Advisory Council shall conduct all meetings face-to-face with the exception of special circumstances as declared by the Executive Committee. Council members are expected to participate accordingly. Under special circumstances, requiring the Council to meet virtually, the OSES shall provide a virtual option for the meeting to be open to the public and Council members. In compliance with the South Carolina Freedom of Information Act, Advisory Council meetings are always open to the public and meeting dates and locations are made public in advance.

All meetings of the Advisory Council shall follow state (S.C. Code Ann. § 30-4-10) and federal (5 U.S.C. § 552) open meeting laws.

Public Comment

All meetings of the Advisory Council shall be open to the public and shall provide an opportunity for public comment.

Annual Report

The Advisory Council shall prepare and submit an annual report of its activities and recommendations by July 1 of each calendar year to OSES, the state superintendent, and the public.

The report shall include:

- A. A description of the Advisory Council's activities
- B. Recommendations formulated through identification and study of issues vital to special education in the state
- C. A list of members
- D. A list of concerns received by public comment
- E. Meeting dates, agendas, and minutes
- F. Annual priorities and summaries of each committee's activities
- G. A cover letter from the chair
- H. Summary of the Preschool Committee's annual report to the legislature

Annual Preschool Report

In addition to the Advisory Council's annual report, the Advisory Council shall submit, with the support of OSES, an annual preschool report by February 1. The report shall be sent to the Interagency Coordinating Council on P.L. 99-457, the Joint Legislative Committee on Children, the Senate Finance Committee, the House Ways and Means Committee, the Senate Education Committee, and the House Education and Public Works Committee, summarizing services for preschool children with disabilities and their families (S C. Code Ann. § 59-36-70).

Compensation

Members of the Advisory Council shall serve without compensation, but the state shall reimburse members for expenses in accordance with state and federal guidelines for attending meetings and performing duties. Other necessary expenses related to Advisory Council business may be reimbursed if previously requested in writing and approved by the OSES.

Conflict of Interest

No member of the Advisory Council may vote on any matter that creates an appearance of a conflict of interest or that provides direct financial benefit to him/her, an immediate family member or a business with which the member is associated to include the agency or organization the member represents.

The Advisory Council exists to advise the SCDE on the unmet needs of students with disabilities. Therefore, no employee of the SCDE shall hold a leadership position on the Advisory Council (chair, vice-chair, secretary, or committee chair/co-chair). SCDE employees may serve as consultants to committees but may not vote on issues.

Resignation

Any member may resign at any time by giving written notice to the OSES's staff liaison and/or chairperson. A resignation shall take effect on the date of receipt of the notice.

Vacancy

A membership vacancy on the Advisory Council should be filled for the remainder of the unexpired term. An individual selected to complete a vacant term shall represent the same constituency as the Advisory Council member being replaced and shall be subject to all bylaws. Individuals appointed to complete vacant terms may apply to serve for an additional term.

Vacancies will be filled following the nominations process outlined in the Advisory Council Procedures Guide.

Termination of Membership

Upon recommendation of the Executive Committee, an appointee to the Advisory Council shall be removed if he/she no longer qualifies as an appointee in the category for which he/she was selected. Membership may also be terminated for any member who is absent for three meetings in a fiscal year. After two consecutive absences, the chairperson shall contact the member to verify interest and ability to serve on the Advisory Council.

Voting

The Advisory Council shall attempt to reach consensus on all business items. Decisions submitted to a vote shall be determined by a simple majority of voting members if a quorum (one-third of the membership) has participated. Voting can take the form of vote by virtual meeting, mail, email, electronic ballot, telephone, or in person. For votes taking place at meetings, members who are unable to attend are encouraged to send substitutes. Substitutes shall represent the same constituency as the member for whom they are substituting and shall be permitted voting privileges and participation in any discussion.

Parliamentary Rules

The parliamentary proceedings of the Advisory Council may be governed by Roberts Rules of Order, Revised. Meeting minutes will include action, information, and discussion items.

Amendments to the Bylaws and Procedures

The bylaws and/or procedures shall be reviewed by the Executive Committee as needed. The bylaws and/or procedures may be amended at any regular meeting of the Advisory Council where a quorum (defined in these bylaws as one third of the membership) is present. A written proposal of amendments must be submitted to members for their review at least fourteen days prior to the regular meeting, at which time the proposal shall be discussed, and action taken.

Should the Advisory Council be unable to reach consensus in favor of adoption of the proposal, a majority vote of the members present is necessary for adoption.