

REPORT TO THE
MINNESOTA STATE LEGISLATURE
ON
INTERAGENCY ALIGNMENT OF STATUTES AND RULES
FOR
CHILDREN WITH DISABILITIES

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to the Legislative Committees on
Health, Human Services and Education.

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Laws of 1995 - Omnibus Education Bill

Section 14. (COMMISSIONERS' DUTIES.)

Subdivision 1. (ALIGNMENT OF RULES). "The commissioners of education, human services, and health shall review current state rules and statutes concerning the disability definitions, eligibility criteria, assessment and diagnostic practices, licensing of service providers, aversive and deprivation procedures, and case management procedures for programs and services for children with disabilities provided by the education and human services systems. The commissioners shall report to the education and health and human services committees of the legislature by February 15, 1996, on recommendations for modifying state rules and statutes and applying for necessary federal waivers to improve service delivery and promote integration and collaboration between the education and human services systems. The commissioners shall include state and local program administrators and service providers in the process for reviewing the state statutes and rules."

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ESTIMATED COSTS OF REPORT PREPARATION

Minnesota Statute 3.197 requires:

A report to the legislature must contain, at the beginning of the report, the cost of preparing the report, including any costs incurred by another agency or another level of government.

Special funding was not provided to cover the cost of preparing this report. Funding came from a combination of sources from the Departments of Children, Families and Learning, Health, and Human Services

Minnesota Department of Children, Families and Learning:

The following is an estimate of the costs incurred by the

Minnesota Department of Children, Families and Learning. \$ 11,100

Minnesota Department of Health:

The following is an estimate of the costs incurred by the

Minnesota Department Health. \$5,500

Minnesota Department of Human Services:

The following is an estimate of the costs incurred by the

Minnesota Department of Human Services. \$9,200

Other Levels of Government:

The following is an estimate of the costs incurred by

School Districts and Counties. \$6,200

TOTAL ESTIMATED COST **\$32,000**

EXECUTIVE SUMMARY

The Commissioners of Health, Human Services and Education were directed by the Legislature to review the statutes and rules for children with disabilities. They were to recommend modifications and necessary federal waivers. The purposes of this review were to improve service delivery and promote integration and collaboration between the education, health and human services systems. An Interagency Alignment Committee was formed, which included representatives of the three state departments and local service providers. Members of the Committee were assigned to one of three work groups to review the statutes and rules. These work groups were: Definitions, Eligibility Criteria, and Assessment and Diagnostic Procedures; Case Management; Aversive and Deprivation Procedures and Professional Licensure.

The primary recommendation of the Interagency Alignment Committee is that a unified system of services for all children be developed before undertaking any major revisions in statutes and rules for children with disabilities. The current categorical statutes and rules, while controversial, are not seen as the major barriers to improving services and extending collaboration. It is the interpretations of statutes and rules, by service systems and providers, that present the greatest barriers to service improvements. This Interagency Alignment Committee feels that in the current environment, critical protections for children will be lost through major revisions of statutes and rules. Changing the systems, within which categorical services operate, is the first step to improving services and increasing collaboration.

There are recommendations for changes in some rules relating to case management and licensing of personnel. These rules' changes should be made after a unified system is in place. Recommendations for changes in the aversive and deprivation rules can be implemented immediately.

The Interagency Alignment Committee believes that, at this time, it is unnecessary to request any waivers of federal regulations.

RECOMMENDATIONS FOR A PROPOSED SYSTEM

INTRODUCTION

The problems associated with separate systems of service for children in Minnesota have been documented many times. The services provided by these systems are often described as crisis oriented, fragmented and ineffective in meeting the diverse needs of children and their families. Parents of children with disabilities frequently experience these problems and in particular those parents whose children require the services of multiple systems. They report that services are not integrated and that there is a lack of communication among service providers.

The continuing controversy over issues of equity, cost, and the quality of categorical services for children with disabilities has provided the impetus for this alignment review of statutes and rules. There is a belief, that by aligning or eliminating categorical statutes and rules, costs will go down and services for children will improve.

The conclusions of the Interagency Alignment Committee, while recommending some changes in statutes and rules, validate the current state initiative to develop a unified system for all children. This effort is a necessary first step as it provides the foundation for developing a system of services based on the needs of children as opposed to categorical labels.

A unified system will facilitate integration of services and collaboration among providers of service to children with disabilities. It will also create the potential for improving services to all children.

ALIGNMENT REVIEW PURPOSES

The Commissioners of Health, Education and Human Services were directed by the legislature to review current statutes and rules for children with disabilities and report their recommendations for modifying them by February 15, 1996. The purposes of this review were to: **"improve service delivery and promote integration and collaboration between the education and human service systems."**

ALIGNMENT REVIEW LIMITATIONS

This alignment review was limited by the charge to review only statutes and rules for children with disabilities apart from alignment of statutes and rules for all children.

In the process of reviewing the statutes and rules, individual steering committee work groups determined that not all agencies and community groups responsible for services to children with disabilities, under current statutes and rules, had been invited to participate in the review process. In addition parents and youth with disabilities were not involved in the review process. Because of this and the complexity and magnitude of the statutes and rules, the Interagency Alignment Committee determined that it would not make specific recommendations for language changes in the statutes and rules. It would instead make general recommendations that could, if approved, be written in specific revision language with the assistance of agencies that were not involved in this alignment review process.

INTERAGENCY ALIGNMENT COMMITTEE REPORT

This report summarizes the major conclusions and recommendations of the Interagency Alignment Committee and its individual work groups. There are two major sections. The **'Framework for the System'** section - reports the Alignment Committee's general conclusions, its primary recommendations for improving services and promoting collaboration and its recommendation for necessary federal waivers. The **"Statutes and Rules and Requests for Federal Waivers"** section - reports the recommendations of the committee work groups by the statutes and rules that each reviewed. (Committee work group reports, statutes and rules reviewed, and study background information, Appendix A-F)

FRAMEWORK FOR THE SYSTEM

Interagency Alignment Committee work groups met independently in reviewing the statutes and rules. They arrived, however, at similar conclusions as to what must be done at this time to improve services for children with disabilities. Work groups were asked for each of the statutes and rules reviewed to define an "ideal" set of conditions that will improve service delivery and promote collaboration. The Committee work groups again identified a similar set of conditions that if, in place, will improve services and extend collaboration. The Committee's rationale for systems' changes, supported by its shared beliefs, and its defined set of "ideal" components of service delivery are the basis for its recommendations.

SHARED BELIEFS

The Interagency Alignment Committee believes that the present multiple systems of services for children with disabilities are the major barriers to improving services and promoting collaboration among service providers. These multiple systems must be restructured prior to any major rules' alignments if significant improvements in services are to occur. The Interagency Alignment Committee further believes that a unified system of services will promote an understanding that all children with disabilities are valuable individuals who contribute to society and lead productive lives.

A unified system will:

- promote early identification of individuals with disabilities and the provision of timely intervention and supports that reduce the need for more restrictive, intensive, and costly services.
- be built on the development of programs, supports, and services that are family centered, age and culturally appropriate, and provided within the least restrictive environment.
- maximize the independence and productivity of children with disabilities.
- respond effectively to the needs of the most disabled and vulnerable children.
- focus on the needs of the children with disabilities and their families and encourage the use of formal and informal individual, family, and community supports.
- result in a streamlined, integrated, and simplified service network that will focus on people, not programs.
- result in increased control and the choice of services and supports for families of children with disabilities.
- result in partnerships among families, agencies, and communities to mobilize the necessary supports for children with disabilities to succeed.

RATIONALE FOR SYSTEMS' CHANGES

The present categorical delivery systems, while working well for some children with disabilities, can be greatly improved for children who have extensive needs requiring the involvement of multiple agencies. These systems have evolved in an uncoordinated manner which has resulted in service fragmentation for many children.

Fundamental changes in the present separate delivery systems must be made in order to substantially improve services for children with disabilities. Major revisions in the statutes and rules for children with disabilities without first making the necessary systems' changes will not result in major service improvements. The development of a unified system for all children is the first step that must be taken at this time to improve services for children with disabilities. The alignment of agencies' organizational missions, service philosophies, and structures, as well as individual attitudes are necessary to developing such a system. A unified system would improve service effectiveness and efficiency for children with disabilities and would reduce overall service costs.

Major alignments in the statutes and rules for children with disabilities only, in isolation of statutes and rules' revisions for all children, will promote confusion and perpetuate categorical services.

The procedural protections for children with disabilities under the current statutes and rules are essential to the provision of appropriate services. Necessary protections and services may be lost through any major statutes and rules' revisions prior to a systems' alignment.

The manner in which agency rules are interpreted and applied creates a greater barrier to improving services for children and families than the current statutes and rules.

COMPONENTS OF AN 'IDEAL' SERVICE SYSTEM

The Interagency Alignment Committee's components of an "ideal" service system for children with disabilities are:

- a coordinated intake and application system for entrance, screening, and referral.
- an integrated process for assessment and eligibility determination.
- an intake process that is accessible and inclusive regardless of race, culture, gender, disability, residency, severity of need, and/or income.
- an "array" of services that are individualized to meet the needs of children and families regardless of severity of need.
- a single service plan for each child with service coordination among service providers identified in the plan.
- a process that involves families in evaluating and improving services for their children.
- a common interagency conflict and dispute resolution process for service providers and for families.
- an interagency plan for training all service providers in ways to involve and strengthen families and promote culturally-competent services.
- a mechanism for funding interagency services that promotes and facilitates the achievement of appropriate outcomes for children.

RECOMMENDATION FOR UNIFIED SYSTEM

The Interagency Alignment Committee recommends that a plan of action be developed for unifying state and local agencies' services for all children. This plan should be developed through a process of family and provider involvement, building upon the current best practices of state and local organizations and service providers. The Commissioners of Health, Human Services, and Children, Families and Learning would be responsible, along with other representatives on the Children's Cabinet, for providing the necessary leadership to implement this recommendation.

The outcomes of this plan will be:

- **a shared vision focusing on strategies and goals for empowering families.** The Children's Cabinet should provide leadership in developing a common vision and ensuring its implementation.
- **a statement of mission and philosophy for providing interagency collaborative services.** The Children's Cabinet and the Departments of Children, Families and Learning, Human Services, and Health should provide leadership in developing a comprehensive interagency mission and philosophy.
- * **a comprehensive and coordinated array of services for all children.** Several interagency collaborative models are successful in integrating provider services for children and their families. These models can act as guides for developing community and family-based services. Examples are: Part-H Early Childhood Programs, Family Services Collaboratives, Children's Mental Health Collaboratives, and Interagency Transition Committees. State departments can assist in facilitating and providing oversight to local agencies and families.
- **the identification of common and shared areas of funding and a procedure for sharing funds.** The relaxation of many categorical funding requirements and the movement toward block grants at the federal level provide new opportunities for integration of services and increased collaboration among service providers.
- * **an interagency plan of training for families, state agencies' staff, and local service providers.** The interagency training plan, required by current statute, should be expanded to facilitate integration of services, the effective delivery of services, and the development of a unified system.
- * **a plan for measuring and communicating service outcomes for children and families.** Successful services for children are generally identified in retrospect. Few services are evaluated against outcome standards determined by parents and service providers working together. Programs such as the Part-H Early Childhood Programs, Mental Health Collaboratives, and Family Services Collaboratives serve as models for empowering parents and service providers to collaborate in identifying service needs and service outcomes.

FEDERAL WAIVERS

RECOMMENDATION

- * **The Alignment Committee proposes that waivers from federal regulations are unnecessary at this time.** The federal government's movement toward deregulation of many categorical programs and block granting of funds creates flexibility for the development of a unified system of services for all children. Depending upon congressional changes waivers may be needed at a future date. Educational services for children with disabilities will, however, continue to be categorically funded and regulated at the federal level. No waivers can be given in this area.

RECOMMENDATIONS FOR ALIGNMENT OF STATUTES AND RULES AND REQUESTS FOR FEDERAL WAIVERS

This section reports the recommendations of the committee work groups by the statutes and rules that each reviewed. (Committee work group reports, statutes and rules reviewed, and study background information, Appendix A-F)

Alignment Committee members were assigned to one of three independent work groups to review statutes and rules and to make recommendations for changes.

These work groups were: Definitions, Eligibility Criteria, and Assessment and Diagnostic Procedures; Case Management; Aversive and Deprivation Procedures and Professional Licensure.

The recommendations of the work group on aversive and deprivation procedures can be implemented immediately. Recommendations of the other work groups cannot be implemented effectively until a unified system is in place. The major conclusions and recommendations of the work groups and the Interagency Alignment Committee's recommendation for necessary federal waivers follow.

DEFINITIONS, ELIGIBILITY CRITERIA, AND ASSESSMENT AND DIAGNOSTIC PROCEDURES

The work group believes that the definitions, eligibility criteria, and assessment and diagnostic procedures, currently being used in programs, provide a structure for ensuring services to defined populations of children. These procedures generally work well for children and are not the primary factors contributing to systems' inefficiencies and ineffectiveness. The problems in the present systems of service for children are much greater than the procedures. It is the manner in which the procedures are applied that creates the incompatibilities. The present multiple service systems need to be changed before there are any changes in the definitions, eligibility criteria, and assessment and diagnostic procedures. Simply rewording procedures without making fundamental changes in the present delivery systems will not improve services for children. (Supporting rationale for the work groups' recommendations, Appendix C)

RECOMMENDATIONS

The work group proposes that current interagency fragmentation be addressed by empowering local communities with support from state agencies to develop a system of services for children with disabilities that is built around:

- services that address the unique culture of individual families, considering race, ethnicity, socio economics, religious, and other cultural influences.
- services that respond to the continuum of needs for children and families from prevention through tertiary intervention; using screening and referral at all appropriate ages to assure early identification and periodic monitoring. In this system, screening, treatment, maintenance, and rescreening will be connected.
- assessments that are culturally relevant and performed from a multi-disciplinary perspective with the family as a key member.
- evaluations that will give service providers and consumers information to refine services based upon outcomes for children and families. (Supporting rationale for the work groups' recommendations are described in Appendix C.)

SERVICE COORDINATION/CASE MANAGEMENT

The work group believes that the current systems of service delivery are fragmented for children whose needs require the involvement of multiple service providers. It recommends that an interagency plan be developed that clearly defines responsibilities for service coordination/case management across agencies.

The work group report, Appendix D, presents a system for the delivery of service coordination/case management services, models of service coordination/ case management for interagency collaboration, functions of interagency service coordination/case management, and potential funding sources for interagency service coordination/case management services.

RECOMMENDATIONS

The work group proposes that:

- legislation be enacted that allows reimbursement for case management services across agencies.
- legislation be enacted, directing that a portion of each state department's budget be set aside, to establish a shared interagency pool of funds for case management services when financial responsibility is in dispute.
- an interagency process of shared funding for service coordination/case management services be developed. Funds for this purpose will come from existing department budgets.
- all departments and service providers accept existing licensure standards for the role of interagency case manager.
- all departments and service providers develop a common definition and role for case management services. (Proposed funding models, definitions, and functions of interagency service coordination/ case management are described in Appendix D)

AVERSIVE AND DEPRIVATION PROCEDURES

There is a strong, shared belief that providers should be using positive interventions and not encouraged to use the aversive and deprivation procedures outlined in these rules. The work group had consensus on this need for positive focus even though the rules describe procedures and limitations for using aversive and deprivation procedures. The work group also feels that there is a need for greater consistency across agencies and programs in the use of all interventions including aversive and deprivation procedures. There is no inclusive language or process in the current rules that will facilitate interagency planning.

RECOMMENDATIONS

The work group proposes that one interagency rule be developed governing aversive and deprivation procedures.

This rule will address:

- the ongoing use of positive interventions and use of positive alternatives to aversive and deprivation procedures whenever possible.
- common definitions for aversive and deprivation procedures across agencies including the term "verbal abuse."
- a definition for "corporal punishment" as identified in Minnesota Statutes 127.45.
- procedures for using "restraints," "locked" versus "unlocked," and "seclusion, and will include language from the education rule regarding the evaluation of the use of "time-out" to determine whether the use of seclusion is contraindicated for psychological or physical health reasons.
- procedures for use of "locked" and "unlocked" based on the child's disability and developmental age.
- an interagency plan of care needs to include, when appropriate, objectives for use of aversive and deprivation procedures for children with disabilities, across agencies. Whenever restrictive or conditional procedures are used, examples of exempted procedures will be identified.
- development and implementation of need-specific (client disability, developmental considerations, age, etc.) training for all service providers and appropriate others. This training will be competency-based to assure adequate knowledge and skill development.

LICENSURE OF PERSONNEL

The work group believes that the issues surrounding the current system of licensing professionals and paraprofessionals cannot be addressed in isolation. They are closely linked to provider policies and practices in service eligibility, case management, labor agreements, and reimbursement. The recommendations found in this report should therefore be considered in conjunction with those of the other work groups when strategies for systemic improvement are formulated.

RECOMMENDATIONS

The work group proposes that:

- a common set of core competencies be identified for professionals and paraprofessionals serving children and families in the areas of childhood development, family systems, and interagency collaborative service delivery.
- case management/service coordination responsibilities can be carried out by individuals who meet a common set of core competencies.
- discipline-specific competencies among service providers be identified.
- reciprocity agreements among credentialing bodies be promoted to allow for greater flexibility in hiring decisions and reimbursement for services.
- best practices in credentialing policies and practices be identified.
- an in-depth examination of Minnesota's licensing, certification, and registration procedures be conducted.

(Supporting rationale for the work group recommendations, Appendix F)