



# State of New Hampshire

GENERAL COURT

CONCORD

## MEMORANDUM

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**DATE:** November 1, 2019

**TO:** Honorable Stephen Shurtleff, Speaker of the House  
Honorable Donna Soucy, President of the Senate  
Honorable Paul C. Smith, House Clerk  
Honorable Tammy L. Wright, Senate Clerk  
Honorable Chris Sununu, Governor  
Michael York, State Librarian

**FROM:** Representative Timothy Lang, Chairman

**SUBJECT:** Final Report of the Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities.  
RSA 186-C:28-a (HB 171, Chapter 46:1, Laws of 2019)

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Pursuant to RSA 186-C:28-a (HB 171, Chapter 46:1, Laws of 2019), enclosed please find the Final Report of the Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities.

If you have any questions or comments regarding this report, please do not hesitate to contact me.

I would like to thank those members of the commission who were instrumental in this study. I would also like to acknowledge all those who testified before the commission and assisted the commission in our study.

Enclosures

cc: Members of the Commission

## FINAL REPORT

### Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities

RSA 186-C:28-a (HB 171, Chapter 46:1, Laws of 2019)

November 1, 2019

Representative Timothy Lang, Chairman	Mary Conroy, Clerk, Special Olympics
Representative Tamara Le, Vice Chair	Mike Desilets, NHADA
Senator John Reagan	Robert Malay, NHSAA
Jane Bergeron-Beaulieu, NHASEA	Doug McIntosh, SALT
Barrett Christina, NHSBA	Ronnieann Rakoski, NHDDC
Jeffrey Collins, NHIAA	Katherine Shea, DOE Designee

#### Commission Charge and Study Purpose:

##### 186-C:28-a Commission Established.

III.(a) The commission shall study school districts' efforts and ability to provide equal access and opportunity for students with disabilities to participate in cocurricular activities. The study shall include, but not be limited to:

- (1) Considering ways of expanding opportunities for students with disabilities to participate in cocurricular activities in accordance with section 504 of the Rehabilitation Act of 1973, 29 U.S.C. section 701 et seq.
- (2) Considering ways for students with disabilities to be allowed to try out for and if selected, participate in athletic programs.
- (3) Considering ways for school districts to provide reasonable accommodations for students with disabilities and without disabilities to participate in unified programs.
- (4) Considering unified sports legislation passed in other states as a model for New Hampshire to adopt.
- (5) Considering ways to expand unified programs in additional school districts.

#### Process and Procedures:

The commission organized on Tuesday, September 24th and elected Representative Timothy Lang as Chair. The Chair appointed Representative Tamara Le as Vice Chair and Mary Conroy as clerk.

The commission met four times throughout the study period. The minutes of each meeting are attached.

### **Findings:**

Unified Sports and activities are prevalent throughout our NH Interscholastic Athletics Association member schools. In looking across all three competitive high school seasons, there are approximately ninety-six teams represented in either the Recreation or Player Development divisions. Some schools go well beyond athletic activities and offer unified music or theater programs as well as other unified arts programs. Some schools are much more involved than others, potentially leading to disparate experiences for students, due to the factors enumerated below.

The benefits of increased participation in extracurricular activities cannot be overstated, both for students with disabilities and those without. There are a variety of ways students can participate, and many students with disabilities do not require additional supports, services, or modifications to do so. For these students, access to extracurricular opportunities is not an issue.

However, for some students, having the required supports and services they are afforded as part of an individualized education plan (IEP) is necessary for participation. These supports are determined by the child's IEP team and are based on what is necessary for a child to receive a free, appropriate, public education (FAPE) and access to the general curriculum. These students may need supports such as a one-to-one paraprofessional or specialized transportation.

While districts designate what supports and services are necessary for students to participate, the barriers to providing these services continue to be difficult to overcome. Funding for such services, outside of the traditional school day, is often an issue. Even when districts creatively secure funds for this purpose, often the most significant barrier of all is the ability to find, hire, and maintain staff who are knowledgeable about the students and able to implement needed supports and plans outside a classroom setting. This is particularly true for activities that take place in the hours after school and on weekends.

Districts are fiscally mindful and creative in order to stretch the little funding that exists to support special education students' required programs and to ensure access to the general education curriculum. This is our primary obligation. Without further funding for programming and staffing focused on supporting students with disabilities in more formal extracurricular opportunities, districts are often unable to work within their means to expand these options.

Nevertheless, it is imperative that these familiar obstacles not be used as excuses for declining to advance the inclusion and participation of students with disabilities in cocurricular activities. Educators and stakeholders must not allow themselves to be limited by the ever-present constraints of fixed resources while calling on students to defy their perceived boundaries. The commission is impressed by the all-volunteer efforts of the Special Olympics, a leader in unified sports and a leader in focusing on what *can* be done. Failing to implement and support programs that make cocurricular activities accessible to students with disabilities will produce less successful students dwelling in a less reliable and less capable society. Stagnant or

falling PISA scores are echoed by the too-often disinterested attitudes toward students whose boundaries are primed to be stretched, and abilities strengthened, through programs like unified sports.

We have learned that in seven states across the country, inclusionary activities in the schools are targeted with federal funding through ESSA. ESSA is the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act of 2015. Each year, the New Hampshire Department of Education may submit an amendment to their consolidated State plan for review and acceptance by the United States Department of Education. The current consolidated State plan allows New Hampshire to accept nearly \$2 million to be used for “Student Support and Academic Enrichment” grants; some of which could be directed to support the inclusion of student with disabilities in co-curricular activities. There are other potential areas in the consolidated State plan where funds could be identified for this purpose as well. It is vital, however, that neither the NH Legislature nor the NH Department of Education impose unfunded mandates with respect to efforts to increase student participation in unified cocurricular activities.

### **Recommendations:**

The commission recommends that local school boards consider adopting policies that seek to include or engage more students with disabilities in unified cocurricular activities, while being mindful of available resources associated with expanding such opportunities.

The commission further recommends the Department of Education and Bureau of Student Support consider designating an employee within that bureau to coordinate cocurricular opportunities for students with disabilities. This may involve researching and applying for grants or communicating with districts about grants that may be available; helping coordinate and encourage networking among districts for shared opportunities when appropriate; and helping provide resources toward that end. The Department of Education should keep the legislature apprised of its progress by reporting on its efforts to promote cocurricular opportunities for students with disabilities to the Speaker of the House, Senate President, Chairs of the House and Senate Committees on Education, and members of this commission by November 1, 2021.

We also recommend legislation be introduced requiring the NH Department of Education to amend their consolidated State plan to use a certain amount of funds to encourage and establish unified co-curricular activities in the schools that currently have no unified programs.

Finally, we also recommend that the New Hampshire Department of Education publicly celebrate the schools in New Hampshire who are considered Unified Champions, those schools who have gone above and beyond to offer unified co-curricular activities.

Respectfully Submitted,

Representative Timothy Lang, Chairman

## Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities

### Regular Meeting

09/24/2019 10:00 AM to 11:00 AM

LOB Room 308

### Attendees:

- Timothy Lang - House
- Tamara Le - House
- John Reagan - Senate
- Katherine Shea - Designee for Department of Education
- Jane Bergeron-Beaulieu - NH Association of Special Education Administrators
- Mary Conroy - Special Olympics NH
- Jeffrey Collins - NH Interscholastic Athletic Association
- Doug McIntosh - SALT
- Mike Desilets - NH Athletic Directors Association
- Robert Malay - NH School Administrators Association

### Absent:

- Ronnieann Rakoski - NH Council on Developmental Disabilities
- Barrett Christina - NH School Boards Association

### Summary of conversation:

- Voted on following positions:
  - Chair: Rep Timothy Lang
  - Vice-Chair: Rep Tamara Le
  - Notetaker: Mary Conroy
- Rep. Lang provided copy of HB 171 to the commission and pointed out that the commission must report on its findings by November 1, 2019.
- Mary Conroy, Jeff Collins and Mike Desilets talked about unified sports programs in general and barriers to participation at state vs school levels.
- Dr. Dean S.T. Cascadden, Superintendent of Bow, shared his experiences.
  - accommodations vs modifications in their district
  - having a 1 on 1 with students during co-curricular activities
  - distinction between Recreation and Player Development models of Unified Sports which allow increased participation at their school.
- Doug McIntosh spoke about the importance of understanding the differences in ability levels between participants and shared his experiences with Power Soccer.
- Kathy Bates, SALT shared her lack of experiences with unified activities and expressed the importance of making people with disabilities feel welcome in a school.
- Committee discussed funding and determined that Katherine Shea will find out about DOE rules around special education funding. Can unified activities fall under current special education funding? If not, is there something we can do to change that?

- Jeff Collins shared that in his experience Unified Sports is no different than any other sports program. Its success comes down to a school embracing the program, having great coaches and community support.
- Rep Le questioned if we should add a provision for coaches training. Jeff Collins shared that the NHIAA has training requirements for their coaches, just like other high school sports. Mary Conroy shared information on Special Olympics Unified Sports trainings.
- Robert Malay shared information on a recent study conducted around performance of student athletes vs non-student athletes. Results show that student athletes (and students that participate in co-curriculars) are performing at a higher level academically (grades, SAT, attendance) than students without sport/co-curricular participation. Robert Malay will share this data at the next committee meeting.
- Jane Bergeron-Beaulieu encourages us to collect data that is New Hampshire specific.
- Rep Lang said that we can all agree the unified programs are valuable for all kids. His inclination is to create legislation that will provide guidelines but not mandate participation. To do this, we must determine barriers to participation.
- Mary Conroy will collect data and stories that will help to expose barriers to participation.

Action items:

- Katherine Shea will find out about DOE rules around special education funding.
- Robert Malay will share collected data.
- Mary Conroy will collect data and stories that will help to expose barriers to participation.
- The commission will review the research binder provided by Special Olympics

Next meeting:

10/08/2019 from 10am to 11am LOB Room 308

## **Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities**

Regular Meeting

10/08/2019 10:00 AM to 11:00 AM

LOB Room 308

### **Attendees:**

- Present
  - Timothy Lang - House
  - Rebecca Forrestall for Jane Bergeron-Beaulieu - NH Association of Special Education Administrators
  - Mary Conroy - Special Olympics NH
  - Barrett Christina - NH School Boards Association
  - Jeffrey Collins - NH Interscholastic Athletic Association
  - Diana Fenton for Katherine Shea - Designee for Department of Education
- Absent
  - Tamara Le - House
  - John Reagan - Senate
  - Doug McIntosh - SALT
  - Mike Desilets - NH Athletic Directors Association
  - Robert Malay - NH School Administrators Association
  - Ronniann Rakoski - NH Council on Developmental Disabilities
- Guests
  - Bridget Carleton
  - Jennifer Foor
  - Mike Dennehy

### **Summary of conversation:**

Rep. Lang

- Opened meeting at 10:05
- Commission accepted 9/24 meeting notes as presented.

Conversation about possibility of unified programs accessing special education funding.

- Mary Conroy discussed prevalence of disabilities (Disabilities = 18%, ID = 3%).
- Rep. Lang believes that we cannot currently use Special Education funds for unified co-curricular activities.
- DOE will look into:
  - Are there funds available (maybe IDEA) that would fund unified co-curricular?
  - Also, what legislation is needed to that would give these programs access to the funds?
- Mary Conroy will find out how IDEA is involved in Unified Champion Schools and will send that information to commission and DOE.
- Rebecca Forrestall shared that funds are needed for transportation and support staff for students (to allow independent participation)

- Jeff Collins shared that schools find ways to work around funding and get creative when they are passionate.

Rep. Lang pointed out that the Special Olympics survey showed that 25% of schools not participating in Unified co-curricular don't see value in it. We need to educate and build awareness.

Bridget Carleton shared Special Olympics survey results with the commission.

- Barrett Christina referenced comment around lower income areas on page 7. He shared that is a significant statewide issue - especially in areas where there is a higher incidence of disabilities. Parents don't have a way to pick up folks at 4 or 5pm. Rep Lang shared that extended gap time can be beneficial but not every school has athletic supervision. Rebecca Forrestall mentioned the more strict parameters required to participate in NHIAA can be beneficial in getting buy in and community support, but also make creative problem solving more difficult.
- Barrett Christina reference comment on page 7 that paras to support are not available.
- Mary Conroy asked how we show value and return on the investment. Investment on front end changes quality of life, for example person with ID that participates in Special Olympics is twice as likely as to be employed a person with ID who has not participated.
- Jeff Collins talked about the importance of changing the philosophy of what kids with ID can do.

Barrett Christina suggested we look at some of the best schools and find out what they are doing and how they got started. Mary Conroy provided the four nationally recognized UCS banner schools: Gilford HS, Dover HS, Alvirne HS and Epping HS. Barrett Christina will reach out to the four banner schools to have that conversation.

Rebecca Forrestall, Jeff Collins and Barrett Christina offered to send a survey to their constituents to get a wider data sample. Bridget Carleton will provide unique survey links to each group, compile results and provide to the commission with time to review before the next meeting.

Jenn Foor will get information from Robert Malay.

Rep. Lang will make sure we have information about DOE around funding for our next meeting.

Jenn Foor will schedule final two commission meetings.

- Next meeting: 10/22 to determine direction of commission report
- 10/29 Meeting to finalize commission report

Rep Lang said that if we have legislative changes we'll need to ask Senate to enter as the House is closed. He suggested perhaps we'll want to create grant program (50/50 match, \$500,000 would be 166 potential new programs)

Mike Dennehy will talk with Sen Waters about Senate submission.



Special Olympics will check published budgets for active schools districts to see how much funding is allocated to unified activities.

- Focus on the top 10 schools.
- Sometimes staffing is listed under 1200 lines

Jeff Collins spoke about funding in lower income areas of the state, like Berlin. Grassroots fundraising is still very much alive. We can't forget about champions and that value. Mary Conroy shared that successful fundraising in their traditional local programs does not correlate to income level of a community.

Rebecca Forrestall asked if there is/should be some sort of recognition or culmination for non-sport things Unified activities. Mary Conroy shared that sport is the natural showcase. People know sport and communities come together to support it. Jeff Collins shared that the number of three sport athlete across the board is dropping dramatically. It is typically only seen in division 4 schools because they need all students to participate to have the numbers to field teams. Most athletes today are two sport athletes.

Barrett Christina will also reach out to his counterparts nationally to find out what legislation or initiatives are in place in other parts of the country.

Rep. Lang closed meeting 11:55

**Action items:**

- Barrett Christina will
  - Reach out to the four banner schools
  - Send a survey to constituents
  - Reach out to national counterparts
- DOE will look into:
  - Are there funds available (maybe IDEA) that would fund unified co-curricular?
  - Also, what legislation is needed that would give these programs access to the funds?
- Jeff Collins will
  - Send a survey to constituents
- Jenn Foor will
  - Get information from Robert Malay
  - Schedule final two commission meetings
- Mary Conroy will
  - Find out how IDEA is involved in Unified Champion Schools; send that information to commission and DOE
  - Provide survey links to NHASEA, NHIAA, NHSBA
  - Compile survey results and send to commission for review prior to 10/22 meeting
  - Will check published budgets for active schools districts to see how much funding is allocated to unified activities.
- Mike Dennehy will
  - Talk with Sen Waters about Senate submission.
- Rebecca Forrestall will
  - Send a survey to constituents

- Rep. Lang will
  - Make sure we have information about DOE around funding for our next meeting

**Next meeting:**

10/22 to determine direction of commission report

10/29 to finalize commission report

# **Commission to Study Equal Access and Opportunity for Students with Disabilities to Participate in Cocurricular Activities**

Regular Meeting

10/22/2019 10:00 AM to 11:00 AM

LOB Room 308

## **Attendees:**

- Present
  - Timothy Lang - House
  - Mary Conroy - Special Olympics NH
  - Katherine Shea - Designee for Department of Education
  - Barrett Christina - NH School Boards Association
  - John Reagan - Senate
  - Mike Desilets - NH Athletic Directors Association
  - Rebecca Forrestall for Jane Bergeron-Beaulieu - NH Association of Special Education Administrators
- Absent
  - Doug McIntosh - SALT
  - Jeffrey Collins - NH Interscholastic Athletic Association
  - Robert Malay - NH School Administrators Association
  - Ronnieann Rakoski - NH Council on Developmental Disabilities
  - Tamara Le - House
- Guests
  - Bridget Pare
  - Bridget Carleton
  - Alex Koutroubas

## **Summary of conversation:**

Rep. Lang opened meeting at 10:10

Katherine Shea shared information about DOE materials distributed via email

- Does not believe there is an additional pool of funding associated with Special Education that we can utilize.
- Support should happen through the IEP; co-curricular must be laid out as part of the IEP.

Rep. Lang asked what are issues, aside from financial, that are an impediment to people participating?

- Katherine Shea shared that she conducted a family survey and received nearly 40 responses. 65% did not have supports for co-curricular in their IEP. We need to educate that co-curricular need to be included as part of the IEP.
- Rebecca Forrestall clarified that the goal of commission is to increase access to students with disabilities with or without an IEP. Rebecca states that surveys showed the largest issues are funding and staffing.

- What is Co-curricular? Barrett Christina referenced RSA193:1-c: “cocurricular shall include those activities which are designed to supplement and enrich regular academic programs of study, provide opportunities for social development, and encourage participation in clubs, athletics, performing groups, and service to school and community.”
- Mike Desilets stated that while a majority co-curriculars are after school, there is a flex period where some groups can meet, but vast majority is after school.
- Katherine Shea questioned location; is northern part of state harder? Commission thought generally yes. Mary Conroy shared that SONH has flourishing programs in north country.
- Mary Conroy shared that we know is that if we have unified programs culture changes. Include more of the student body in everything, shouldn't that be our goal? Aren't their suggestions before we get caught up in IEP and those things. Everyone who touches it says it makes me a better person (ID or not).

Rep. Lang asked if there are legislative barriers that are stopping districts from moving forward? We all know that unified activists are good, but our question is what can we do to further promote and make sure there is nothing in the way moving forward. In the report we can say that the commission sees value in these programs, for all people, that result in better citizens for the state of NH and to further promote these program we want...what? IEP accommodations need to include after school activities Recommend banner school items.

- Rebecca Forrestall shared that focus shouldn't be all on sport. We want everyone to feel included and part of the school...that is the overarching. We know that funding is the problem. It doesn't seem like the barrier is mindset. It is funding.
- Katherine Shea shared that there are creative solutions to staffing issues, perhaps using groups like Best Buddies.
- Rep Lang said one of our goals is to educate. Unified Sports has been a huge success in the state. We have been so narrowly focused on sports, but we need to educate about more than sports.
- The commission wondered if the DOE could set direction, manual, guidelines and/or standardized training
- Rebecca Forrestall wondered if the bureau of student services could create a manual to work on how to become more inclusive, how to navigate the process. Maybe include grant funding options. That will allow us to have a resource to go to vs mandating something that folks can't do.
- Mary Conroy wondered if state legislature could recognize schools at the state level, similar to the Special Olympics banner school model.
- Rep Lang said they could do a resolution for school as needed, but a recognition program didn't seem feasible from the state level.
- Rebecca Forrestall reminded the group that the goal is inclusion and you can get there lots of ways, not just sports or clubs.
- Bridget Pare, dispute resolution coordinator DOE shared that most complaints around services that haven't been provided (para and transportation). Reason is they don't have enough people. They have funding but can't fill positions. Special Education jobs now are hard to fill. New professionals joining the field are declining. We don't have enough people to fill the positions. Transportation is also hard. Private companies are shutting down. Districts know they aren't providing the service, but they can't do it because they don't have the resource (staff not money). We are approaching a crisis now. The climate is

very different than it used to be. Federal law around special education funding hasn't changed since 2004. It requires services and support for after school activities, but if you can't fill the position, you can't fill the position.

- The Commission asked Bridget Pare if the DOE could provide some guidance on unified co-curriculars. Bridget shared that as a state entity we can't tell them what to do, but she likes the idea of some sort of resource. DOE can't take a side but can get the word out.
- Barrett Christina talked about challenges filling paraprofessional positions. A person can work as a para for \$11/hr or at McDonalds for \$12/hr.
- Rebecca Forrestall echoed that the landscape is changing. Most students today don't have just one diagnosis. Students require much more intensive support system. We can't use volunteers for school functions. What are creative ways that other districts are handling? If I could call the DOE and say "hey I want to start but who can I partner with," that might be helpful. It is important that we don't mandate something without the funding to support it.

Rep. Lang said that we have a workforce issue.

We don't have enough staff. The transient nature of these positions creates additional problems. IEPs don't include co-curricular. Staff doesn't understand specific student needs. Comes down to a simple workforce issue.... leading to additional problems.

- Each person should write one paragraph and submit to Jenn by Friday. Pick a topic in your area of expertise around barriers to participation and what recommend doing to remove. Lang will take all paragraphs and combine into the report. At next week's meeting we will have a draft to talk about.

Rep. Lang closed meeting at 11:06.

### **Action items:**

- Each commission member should write one paragraph on a topic that should be included in the final report. Send to Jenn by Friday, October 25th.

### **Next meeting:**

10/29 Meeting to finalize commission report