

2011-
2012

COPAA Annual Report



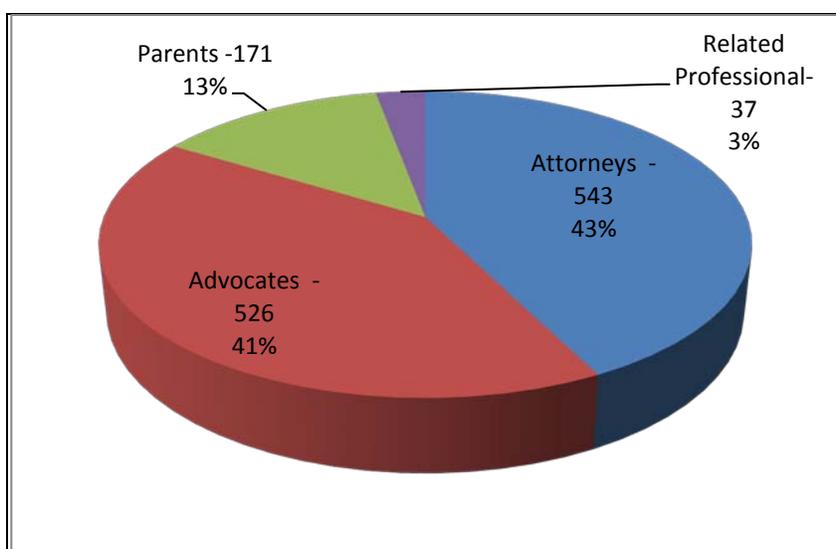
Council of Parent Attorneys and Advocates, Inc.

www.copaa.org

Your National Voice for Special Education Rights and Excellence in Advocacy

The Council of Parent Attorneys and Advocates, Inc. (COPAA) is an independent, nonprofit, §501(c)(3) tax-exempt membership organization of attorneys, advocates, parents and related professionals. COPAA members work to protect special education rights and secure excellence in education on behalf of the 7.1 million children with disabilities in America.

With close to 1300 Members nationwide COPAA is at the forefront of Special Education Advocacy



Current Membership = 1276

Congress passed the Individuals with Disabilities Education Act (IDEA) over three decades ago “to ensure that all children with disabilities have available to them a free appropriate public education . . . designed to meet their unique needs and prepare them for further education, employment, and independent living.” While many students with disabilities receive a good education, far too many receive an education that is weak and inadequate. Congress envisioned parents as equal partners in developing their children’s educational programs; however, parents are often unable to participate meaningfully in the Individualized Education Program (IEP) process or exercise their rights without representation. They face a playing field that is neither level nor fair.

COPAA is committed to increasing the quality and quantity of special education advocates and attorneys and creating a level playing field to ensure children with disabilities receive the high-quality education to which all children are entitled.

Children with Disabilities Deserve a Quality Education That Provides Meaningful Benefit

Children with disabilities must have the right to equality of opportunity and an education that provides meaningful educational benefit.



Together the Individuals with Disabilities Education Act (IDEA) and Elementary and Secondary Education Act (ESEA) have raised expectations for learning and have underscored the legally enforceable rights of all students, including those with disabilities, to be provided an opportunity to learn to the same high standards as their peers. We must, however, close the gap between the promise and the reality of these laws.

Today, in its fourteenth year, COPAA continues to expand its reach and influence; protecting the rights of students with disabilities and their families on many fronts. Our Amicus Committee considered over 35 cases of national significance last year, filing briefs and providing technical assistance or guidance. Our Governmental Relations Committee amplified COPAA's voice on over 30 policy issues at the federal level.

With input from the membership, the COPAA Board continues strategic planning activities to determine COPAA goals for 2012 -2017. COPAA works to further its mission at the local, state and federal levels to protect parents and students. COPAA members are urged to comment on the following proposed goals by May 4, 2012 by sending an email to chair@copaa.org.

- GOAL 1: Increase Membership to 2000**
- GOAL 2: Increase Revenue to \$500, 000.00 per year**
- GOAL 3: Be a Strong National Information Dissemination Network**
- GOAL 4: Provide High Quality Training to Protect Special Education Rights and Promote Excellence in Advocacy**
- GOAL 5: COPAA is the National Leader in Protecting the Legal Education Rights of Students with Disabilities and Their Families**

2011-2012 Board of Directors and Staff

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Term Ending in 2014: Robert Berlow (MD), Eileen Crumm (CA), Andrew Feinstein (CT), Mark Kamleiter (FL), Sonja Kerr (PA), Dawn Smith (GA), Carolina Watts (CA)

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Denise Marshall, Executive Director

Marcie Hipple, Membership and Conference Coordinator

Thank You Volunteers

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Thank you to COPAA Conference Attendees for your generous support of the Beth Goodman Scholarship Fund.

Special thanks to the Center for Law and Education, especially CLE co-director Kathleen Boudy for publishing under contract with COPAA the reports ***Responding to a Blueprint for Reform through the Lens of Students with Disabilities***, and ***Charter Schools and Students with Disabilities: Preliminary Analysis of the Legal Issues and Concerns***.

Special thanks also to COPAA Members Kristine L. Sullivan, Leslie Seid Margolis, Alice K. Nelson, and Jodi Siegel for their extensive work on COPAA practitioners' manual ***The Right to be Safe in School: Advocacy and Litigation Strategies to Combat the Use of Restraint and Seclusion***, released for publication in 2011. This publication was supported by a grant under the Appell-Alpert Educational Abuse Fund, established in 2009 by Dee Alpert.

Advocates Committee

Missy Alexander and David Beinke, Co-Chairs

The Advocates Committee is an active part of COPAA, holding monthly committee teleconferences on the third Friday of each month from 12:00 noon to 1:00 pm Eastern time. Each meeting has a standardized format with an emphasis on sharing of information and training. The agenda includes presentation of a monthly advocate toolbox with materials on specific topics, research articles, information from a District point of view (called “ from the other side”), a case review for participants to discuss, discussion to encourage members’ participation in COPAA activities and “YouTube” of the month.

The committee continues to explore provision of training for all levels of advocates, with training for experienced advocates a continual challenge. Advanced advocate training is being offered at this year conference.

Cynthia Daniels-Hall (NC) and Naomi Grossman (Hawaii) agreed to Co-chair with COPAA Board Member David Beinke (TX) for the upcoming year.

Advocate Committee Goals

- a) Implementation of the SEAT Curriculum. While COPAA has no immediate plans or proposals to formally address the licensure and certification issue of advocates, providing continuous quality training opportunities continues to be a priority for increasing the professionalism of special education advocates.
- b) Development of COPAA advocates in all 50 states- 2 year plan.
- c) Development of COPAA advocacy and outreach to less served populations -rural, military families, tribal areas.
- d) Development of diversity among the advocate corps. This is a long-term goal, one that the membership committee continues to work on as well.
- e) Welcoming new advocates. -The Advocates Committee co-chairs plan to reach out quarterly to new COPAA advocates to extend an individualized personal welcome to COPAA.

Amicus Committee

Selene Almazan and Andrew Feinstein, Co-Chairs

The Amicus Committee's intense work serves a critical role towards attaining COPAA's mission. In the past year the Committee received referrals on 35 major cases. Requests of the committee often involve a hundred pages of documents, are sent by email to all the members of the Committee. Where controversy exists about what stance COPAA should take, we convene a conference call. In those cases in which the Committee determines that COPAA should take a stand, those members of the Committee who are willing and able spend considerable time reviewing drafts with the authors of the briefs. We have been blessed with a strong group of private counsel from national law firms to draft amicus briefs for us on a pro bono basis. Still, the level of Committee involvement is, of necessity, large to ensure that COPAA's position is crafted appropriately.

Although the Committee considers each case on its own merits, the Committee has been guided by two clear principles. First, COPAA is an organization devoted to the education of children with disabilities. To file an amicus brief on a case, three elements need to be present: a child, a disability, and education. Second, the current United States Supreme Court appears to be a dangerous place for our issues. Therefore, COPAA is very cautious about supporting any petition for certiorari before that Court.

Amicus Briefs Filed

On July 1, 2011, we filed an amicus brief in *Petit v. US Department of Education* (Case No. 07-cv-01583-RMU), pending before the United States Court of Appeals for the District of Columbia. The brief was written by Seth Galanter, et. al., of Morrison & Foerster, LLP. Substantial assistance was provided by various Amicus Committee members and Attorney Bruce Goldstein of Buffalo. Oral Argument was held November 14. In the brief COPAA argues that The Secretary of Education's regulation excluding "mapping" of cochlear implants from the scope of "related services" is contrary to the IDEA's unambiguous definition of "related services." Even were the statute found to be ambiguous, the Secretary may issue implementing regulations only to the extent "necessary" to ensure compliance with specific IDEA requirements. The Secretary's regulations are not necessary; nor are they even a reasonable construction of the statute.

On June 15, 2011, an amicus brief was filed on behalf of COPAA, as well as Disability Rights Advocates, Disability Rights Education and Defense Fund, and Disability Rights California in the case of *G.M. [Marchese] v. Drycreek Joint Elementary School District* (Case No. 2:10-cv-00944-GEB). The brief was written by Anna R. Levine of Disability Rights Advocates and was closely reviewed and commented upon by various Amicus Committee members. The appeal challenged a district court decision finding two large exceptions in the stay-put provision of 20 U.S.C. §1415(j). One exception was that, since the IEP was written to last only one school year, it was not subject to continuation under stay put. The other exception was that stay put

did not cover a specific provider of services even where, as here, the name of the provider was written into the IEP.

The Amicus Committee previously voted to file a brief in the case *B.H. v. West Clermont* (Case No. 1:10-cv-520) on appeal to the 6th Circuit Court of Appeals. The case involved the use of restraint and whether behavioral regression, without academic regression, shows a failure to prove FAPE. Baker & McKenzie had started to prepare the brief when the case settled. Hence, there is no need for COPAA's continued involvement.

The Amicus Committee voted to file a brief in *Ebonie S. v. Pueblo School District 60* (Case No. 09-cv-00858-WJM-MEH) in the 10th Circuit Court of Appeals. Committee member Leslie Margolis noticed this case and the committee reached out to the Denver attorneys of Holland & Hart to see whether our assistance was desired. Baker & McKenzie wrote COPAA's brief arguing that the routine use of a mechanical restraint deck is unwarranted and contrary to educational standards, and that the use of such a mechanical restraint violated the student's equal protection rights

The Amicus Committee voted to file a brief in *R.E. v. New York Board of Education* (Case No. 1:10-cv-3176-RWS) on appeal to the Second Circuit Court of Appeals by Attorneys Gary Mayerson and Tracey Walsh. Caroline Heller of Greenberg Traurig, LLP is working on the brief. The brief will include the following arguments: 1) As a policy matter, the failure to timely conduct a functional behavioral analysis and create a behavior intervention plan, where behavior is a significant impediment to learning, is a substantive violation of the IDEA; 2) The sufficiency of an IEP is determined from the contents of the four corners of the IEP. The IEP to be judged is the IEP developed by the IEP Team at the annual meeting and not by a amended IEP presented at the due process hearing as to what would have been done for the student had the student attended a proposed public school; and 3) Programming required for the student to make meaningful education process is not "methodology", exempt from challenge by a parent.

The Amicus Committee voted to file an amicus brief in *K.M. v. Tustin Unified School District* (Case No. 8:10-cv-01011-DOC-MLG) a case of Attorney David Grey. The case involves the claim, in the case of a hearing impaired student, that she was discriminated against under both the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973, despite the fact that the school district provided her with a valid IEP. Baker and McKenzie wrote the brief for COPAA.

JEFFERSON Board of Education v. Phillip and Angie C: On February 21, 2012 COPAA filed the Amicus brief in this case regarding IEEs in support of the parents, Appellees, represented by Deb Mattison, COPAA member. As *Amicus*, COPAA's interest is to offer this Court its experience on the IEE issue including the use of publicly-funded IEEs in the provision of FAPE, aiding in the protection of the rights of children with disabilities. The IEE provides an essential balance in the parent-school relationship to ensure FAPE by permitting input from independent professionals. COPAA members understand that publicly-funded IEEs have brought to bear necessary expertise and researched-based scientific practices for children

and generally enhanced parent-school collaboration. COPAA also has insight into other issues this appeal raises including “collaborative federalism” of the IDEA, the doctrine that has led all of the states in the Eleventh Circuit to adopt longstanding regulations permitting publicly-funded IEEs. Many thanks to Jonathan Zimring, COPAA Board member, for writing the brief.

Conference Committee

Missy Alexander and Selene Almazan, Co-Chairs

The Conference Committee works hard all year, starting with review of the previous year’s evaluations and planning for next year. This year we received 92 RFP applications; of which 40 were selected for breakout presentations. The number of RFPS has continued to rise each year.

The larger Conference Committee reviews evaluations from previous years, reviews the timeline for posting the RFP on the COPAA website and determines keynote speakers for Friday and Saturday. A pre Conference subcommittee reviews evaluations and plans for the upcoming preconference. A Silent Auction Committee is dedicated to collecting items for the Silent Auction and the RFP review Committee determines the final selection of breakout sessions.

The 2012 Pre Conference sessions included: **4 two-day** Skills training sessions(New Attorneys, Due Process, Research, and Advocate Skills Training) and **7 one-day** Pre Conference trainings for Attorneys, Advocates and Parents. Notably this year we offered a one day Advanced Advocate Training.

The annual conference in Miami at the Downtown Hilton had 360 participants. The keynote speakers on Friday Evening were Tracy Thresher and Larry Bissonette from the movie, *Wretches and Jabberers* and Dr. Ann Simun presented regarding assessments on Saturday morning. Dr. Simun is a longtime COPAA member and presenter. COPAA is pleased that Judith Gran again presented the acclaimed Annual Case Law Review. Out of the 358 attendees at the conference this year, 105 were first time attendees.

The Annual COPAA Fun Run T-shirt this year was dedicated to longtime COPAA Member Dee Alpert (see graphic above). Her memory and spirit lives on in our work.

Save the date for 2013 Conference in Albuquerque, NM. The conference will be March 7-10, 2013 at the Hyatt Albuquerque.



Membership Committee

Jennifer Laviano and Carolina Watts, Co-Chairs

COPAA's membership continues to expand, increasing 154 members since the previous annual report. Current membership is 1276. COPAA's previous Strategic Plan included a goal for increasing membership, with two related parts: (1) increasing new membership; and (2) increasing membership retention. All of the MC's activities have been geared towards meeting these goals. COPAA continues to recruit new members to the organization and retain long term members. The MC discussed the goal of increasing total membership to 2000, and the objectives of reducing membership attrition by 5% per year to a norm of 25% and establishing an effective membership recruitment system. The MC recently conducted a survey of the membership due to our need to continue to gather information regarding the challenges in regards to members, to meet members' needs with tangible benefits, and to enhance communications with our members. Results will be shared with the membership and will inform further strategic deliberations.

The MC feels that striving for diversity in all aspects of our organization is important. COPAA needs to collect baseline data regarding the diversity of our current membership so that a specific goal can be set within one year. The MC is currently exploring ways in which COPAA Community Tools can benefit our members and be a means of increasing active participation, which can ultimately help us reduce attrition. The MC feels it is important to offer increased ways to engage our members, by allowing them to utilize tools such as online announcements or forums. We also discussed the need for oversight and monitoring of these tools.

The Membership Committee continues to review the structure of the membership categories and rates. Two changes to the Membership Categories recommended this past year include:

Add Military Discount – In June 2011, the MC recommended that the Board approve a discounted rate of \$25.00 under the Parent category for persons serving in the Military. This recommendation was approved by the Board. The MC also drafted language for a PR release to announce this opportunity. Implementation of this initiative also requires changes to the website. This initiative will be rolled out following the conference.

Change to "Other" to Related Professional Category – the MC discussed the label of "Other." Because COPAA is a professional membership organization, we believed that the label for this category should be more reflective of the fact that it includes professionals in the special education community "other than" attorneys and advocates. The MC is recommending that this category label be changed to "Related Professional."

Membership Committee Goals for 2012-2013

- a. Reduce member attrition by 5% during the upcoming year (to meet the strategic planning objective of reducing member attrition by 5% per year to a norm of 25%).
- b. Review survey responses and other data regarding membership by no later than the June 2012 board meeting in order to further refine action steps related to membership.
- c. Continue to develop and implement outreach and communication systems to promote awareness of membership benefits to our members.
- d. Collect baseline data regarding diversity through the member profile, and review the data within a year in order to quantify specific objectives in this area.
- e. Continue to work on concrete action steps including increasing benefits, offering access to a variety of community and online tools, and reviewing and monitoring membership data.

Governmental Relations

Dawn Smith and Robert Berlow, Co-Chairs

COPAA continues to expand its reach and influence in federal policy matters. 2011 was an extremely busy year as COPAA both pushed for legislation and policy efforts that furthered our mission and opposed legislation that weakened rights and meaningful education benefit for students with disabilities.

The majority of work in Congress was on three overarching efforts restraint/seclusion, the IDEA Fairness Restoration Act, and ESEA Reauthorization. In the Executive Branch much effort was on Restraint and Seclusion Prevention and Reduction, IDEA Monitoring and Compliance, and ESEA Reauthorization

COPAA issued a report written by the Center for Law and Education(CLE) under contract with COPAA entitled ***Responding to a Blueprint for Reform through the Lens of Students with Disabilities***, along with a limited set of Elementary and Secondary Education Act (“ESEA”) policy recommendations pertaining to students with disabilities drawn upon the analysis in the brief, was sent to the Executive Branch and Department of Education staff and to key congressional leaders on the Senate and House HELP Committees.

COPAA also commissioned a CLE authored report entitled ***Charter Schools and Students with Disabilities: Preliminary Analysis of the Legal Issues and Concerns*** which illustrates a growing concern with the lack of documented effectiveness of such so called “schools of choice,” as well as clear discriminatory and exclusionary practices. This brief was sent to House and Senate HELP Committee staffers and shared with our collaborative partners.

Summary of Legislative Activities in the past Year

Date	Name or Issue	Position
Jan, 2011	H.R. 3082, the Continuing Resolution for government funding Nullifies the 9 th circuit case Renee v. Duncan - weakens HQT provision	Oppose
Jan-March, 2011	IDEA Fairness Restoration Act ((H.R. 1208)(S.613)	Support
April, 2011	Keeping All Students Safe Act HR 1381	Support
April, 2011	Meeting with Congress Reps Supreme Court Issues	Urge Reversals
May, 2011	ESEA Brief and Policy Recommendations	Strategy
May-11	ESEA Policy Recommendations	Strategy
May, 2011	Restraint and Seclusion	Strategy
June, 2011	Co-Sponsored Congressional Briefing on Restraint and Seclusion	Strategy
July, 2011	Successful, Safe, and Healthy Students Act (S. 919).	Support
July, 2011	Stop Child Abuse in Residential Programs for Teens Act	Support
July, 2011	H.R. 2445 The State and Local Funding Flexibility Act	Oppose
Dec, 2011	S2020 Keeping All Students Safe Act	Support
July, 2011	Meeting with Chairman Kline's Office about Leg Priorities	Strategy
July, 2011	S. 1403 IDEA Full Funding Act	Support
Sept., 2011	S. 1571 Amendments to ESEA lifting caps on Alt Assessment	Oppose
Oct, 2011	H.R. 2902, the Equal Access to Quality Education Act of 2011	Support
Oct, 2011	Meeting with Senator Kirk Staff Re: Restraint/Seclusion	Strategy
Oct, 2011	House ESEA Chairman's Mark	Unable to Support
Oct 2011	S. 1716, ASSURING SUCCESSFUL STUDENTS THROUGH EFFECTIVE	Support

	TEACHING ACT OF 2011.	
Oct, 2011	Isakson Amendment to Chairman's Mark lifting caps on Alt Assessment	Oppose
Oct, 2011	Urge Senate to Add Amendment for R/S to ESEA	Strategy
Nov, 2011	H.R. 966 the "Lawsuit Abuse Reduction Act	Oppose
Feb, 2012	Miller Substitute Title I ESEA Amendment	Step Forward - not endorsed
Feb, 2012	Students Success Act (H.R. 3989)	Oppose
Feb, 2012	Encouraging Innovation & Effective Teachers Act (H.R. 3990)	Oppose
Feb. 2012	GREAT ACT S. 1250	Not Support

Priorities for 2012 -2013

Children with Disabilities Deserve Quality Educations That Provide Meaningful Benefit

Students with disabilities have benefited greatly from the Elementary and Secondary Education Act (ESEA) because the law requires their academic achievement to be measured and reported. As a result, more students with disabilities have been afforded the opportunity to learn and master grade level academic content. Reauthorization of the Elementary and Secondary Education Act must ensure that all students can learn and thrive in school and be career and college ready. Federal monies must not be used to undermine the accountability and quality components mandated by Title I of the ESEA, the provisions governing highly qualified teachers, the IDEA, and the civil rights statutes (Title VI, Title IX of the Education Amendments, Section 504 and the Equal Educational Opportunities Act).

- ESEA must hold schools, districts, and the State accountable to individual students and subgroups of students and their families by ensuring that no child will be subjected to lower expectations or less attention when he or she is not on the path toward proficient *and* high levels of achievement.
- The reauthorized ESEA must not focus exclusively on the lowest performing high-needs districts and schools; this will limit the scope and scale of Title I, Part A. This pull back is likely to be most adverse for members of those subgroup populations who under NCLB have been included for the first time in the State accountability system and become the focus of attention because of their subgroup's failure to make AYP.

- The ESEA should incorporate the principles of Universal Design for Learning (UDL), as intended for *all* students (not only students with disabilities), including the definition of the term that is currently in the Higher Education Act (“HEA”), and use of accessible instructional materials (“AIM”) and technology.
- ESEA must ensure that all subgroups of students, including students with disabilities, have access to high standards and hold schools, districts and States accountable for closing the achievement gap, and ensure that entry level does not become the endpoint or goal in educating any group of students based on low expectations.
- Measures of student growth must be measured using a trajectory toward the students enrolled grade level standards established for all students. This is important for ensuring that students with disabilities have the same opportunity to demonstrate progress in the general education curriculum as their peers. A growth factor in any new rubric for school accountability (now known as Adequate Yearly Progress, AYP) needs to supplement and not substitute for a measure of student achievement against enrolled grade-level standards - known as "status" - so that both have equal weight in the formula.
- Computer Adaptive Testing (CAT) - computer-administered assessments can provide some advantages for students with disabilities such as embedded accommodations, but must be demonstrated through peer review to assess the students based on their enrolled grade-level content standards and validated through research to be appropriate.
- Statewide standards to ensure that students are college or career-ready must be rigorous, relevant, and meaningful so that families and communities can determine that students are on target toward college and career readiness and that their schools are effective.
- Standards must be developed based on evidence based practices that demonstrate connection to increased learning.
- There must be full and informed involvement of teachers, parents, and students in the process of developing standards; a transparent and deliberative process with multiple opportunities for input at every stage, and processes for ensuring that the standards are being effectively disseminated and understood.
- In developing standards there must be a peer review process that includes persons from advocacy and civil rights organizations so as to ensure, for example, that issues and concerns of cultural competency and, especially for disability groups, that consistency with Universal Design for Learning (“UDL”) principles are considered.

There is no question that the 2004 reauthorization of the Individuals with Disabilities Education Act ("IDEA 2004") was significantly influenced by the 2001 reauthorization of the

ESEA, which set the framework for holding all States, local educational agencies ("LEAs"), and schools accountable to students, their families, and members of the broader school community for providing a high-quality education to all school age children and youth. Together these two statutes raised expectations for learning and have underscored the legally enforceable rights of all students, including those with disabilities to be provided an opportunity to learn to the same high standards as their peers.

Reauthorizations of ESEA and IDEA must continue to raise the bar of expectation to ensure that all students receive educational benefit that is meaningful, measurable and more than simply the basics. COPAA continues to push for change to assure that every child with disabilities receives the education and related services needed to learn, succeed in post-secondary education and ultimately to achieve maximum adult independence.

Parents as Meaningful and Equal Partners in the Development of Individual Education Program

Congress' has repeatedly found that "the education of children with disabilities can be made more effective by ... strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate in the education of their children at school and at home." § 601(C)(5). IEP meetings are the primary venue for parental participation. The following issues have stifled parent ability to be full partners in the process and should be corrected:

- Provide Useful, Simple Interpretive Guidance to Parents, and Making Clear Parents are Equal IEP Team Members and the Administrators at IEP Meeting must Have Authority to Commit Resources.
- Reverse Commentary and Letters Impairing Parent's Right to Invite Related Services Professionals and Other IEP Team Members to IEP Meetings.
- Reversing Letter to LaDolce (2007) regarding IEEs;
- Clarifying Letter to Anonymous (2008), in which OSEP claimed that IDEA does not establish any particular time frames for obtaining consent to an evaluation and OSEP would not impose one. This letter should be reversed because it inappropriately allows schools to undermine the 60-day deadline.
- OSEP's Interpretation Eliminating Stay-Put for Children Transitioning from Part C to Part B is Inappropriate and Should Be Reversed (Pardini).
- Retract Letter to Mamas (2004) and Make Clear Parents' and Experts' Rights to Observe in the Classroom. Parents and their experts often need to observe the classroom. To fully participate as team members they should have the right to observe the child's education in progress, a proposed placement, whether accommodations and services are being provided, and other matters.

Legislative fixes to the foregoing should also be considered.

Protect Parents' Due Process Hearing Rights

Parents are the primary enforcers of the Individuals with Disabilities Education Act (IDEA) through private actions. Therefore, it is important to protect and strengthen due process hearing rights so parents are on an even playing field and children with disabilities may receive the free, appropriate public education (FAPE) to which they are entitled.

- Supreme Court Decisions Harming Parental Due Process Rights Should Be Reversed. It is critical to override three Supreme Court decisions that severely limit parental due process rights and prevent children from receiving a free appropriate public education: *Arlington Central School District v. Murphy* (2006), *Schaffer v. Weast* (2005), and *Buckhannon Board & Care Home, Inc. v. W. Va. Dep't of Health & Human Res.* (2000).
- Obstacles to Independent Education Evaluations should be removed Parents and Parents consultants must be allowed to observe students in the classroom without unreasonable delay, interference or restrictions.
- 2 YEAR Statute of Limitations should be deleted or modified.
- Prior Written Notice Requirements Should be Strengthened and Enforceable.
- Statutory Pleading Requirements should adopt report language to prevent Hearing Officers from imposing higher standards than Congress intended and dismissing parent complaints.
- School districts fail to respond to Parent Complaints with impunity. IDEA needs to provide a remedy when District fails to respond.
- Resolution sessions should be replaced with voluntary mediation because school districts use resolution sessions to delay hearings and often fail to resolve parent concerns. In addition, attorneys fees should be made available for these sessions to enable parents to meaningfully participate.
- Parents must receive copies of IEPs in a timely and reasonable fashion. They often do not receive copies or receive altered documents that have been modified or changed outside of the IEP Process.
- Cochlear Implant Mapping must be included as a related service as congress intended.
- Short term objectives should be required in IEP's.
- Stricter standards for manifestation determination reviews and reduced protections for students not yet identified imposed by IDEA 2004 should be removed and 1997 standards restored.
- Multiple Suspension Standard imposed by IDEA 2004 should be removed and 1997 Standard restored.
- Discipline Discrepancy Standards should be clarified to reflect discrepancies between suspensions of students without disabilities and other students.

- Action Is Needed to Stop School Districts from Abusing Motions for Insufficiency in Due Process.

Keep All Students Safe at School

Restraint, seclusion and aversive interventions are harmful and abusive and have no place as part of educational programs for children with disabilities. Restraints, seclusion and aversive interventions are neither educational nor effective. Instead, their harms and dangers are well-documented. Inappropriately and routinely used, they amount to child abuse.

Children should receive effective positive behavior supports developed within a comprehensive, professionally-developed plan of behavioral accommodations, supports, and interventions. Although some states have standards and regulations regarding restraints, seclusion and aversive interventions, the existing laws are not uniform and may not be enforced. Other states provide little or no protection for children at all. Because there is no monitoring on a national level, the full extent of death, injuries, and harm from the imposition of restraint, seclusion, or aversive intervention is unknown. Federal legislation must be passed to protect all students.

Every child is entitled to be treated with dignity and respect. COPAA's efforts on this goal are shaped by the [*COPAA Declaration of Principles Opposing the Use of Restraint, Seclusion and Aversive Interventions*](#)

Federal legislation must at minimum include these standards:

- Positive and appropriate educational interventions should be used; restraints, seclusion and aversive techniques should not.
- Restraints to control acute or episodic aggressive behavior should only be used under the following circumstances: (a) The student's actions pose a clear, present and imminent danger of serious bodily injury to himself/herself or to others; (b) Less restrictive measures have not effectively de-escalated the risk of injury; (c) The restraint should only last as long as necessary to resolve the actual risk of danger or harm; (d) The degree of force applied may not exceed what is necessary to protect the student or other persons from imminent bodily injury.
- A restraint may be used in an emergency situation only if elements 4 (a)-(d) exist. The existence of each element and circumstances surrounding use of the restraint must be reported to the parent and documented immediately in the child's records.
- Restraint and seclusion should never be used as a planned intervention for a student as part of an IEP, a Section 504 plan, or a behavior plan.

- If a student has a behavior plan or an IEP or Section 504 plan with behavioral goals and/or objectives, the IEP team, Section 504 team, such plan should contain only information on how to avoid or prevent emergencies and appropriate professionals must closely monitor implementation of the plan for appropriateness and effectiveness.
- Parents must receive notice of their procedural safeguards; including the right to an independent educational evaluation and to receive full and complete information about every incident in which restraint is imposed.
- Certain techniques are so harmful and dangerous, and an affront to human rights and dignity, that they should be banned outright.
 - Mechanical restraints and prone restraints (e.g., with a child face down) should never be used. Movement limitation may never be used as a punishment or as a substitute for appropriate educational support.
 - Aversive techniques should never be used on children as planned consequences of behavior or symptoms. No child should be subjected to pain or noxious stimuli, such as electric skin shock, ice applications, hitting, slapping, pinching, kicking, hurling, strangling, shoving, deep muscle squeezes, use of noxious inhalants or unpleasant tastes, loud noises, or other similar stimuli. Meals may not be withheld and children should never receive limited nutrition or hydration, or food or drink that is intentionally altered to make it distasteful. Clothing and shelter may not be withheld as part of a behavior control method.
 - A child should never be locked alone in a room, closet, box, or other place from which the child cannot exit.
- School districts must always allow parents to make reasonable visits to their children’s classroom and schools. Parents are an integral part of the school community and have a right to observe their children.

Training Committee

Mandy Favalaro and Eileen Crumm, Co-Chairs

The Training Committee has focused on developing webinar topics, recruiting speakers, promoting archived webinars. This year for the first time COPAA offered a subscription option. The Training Committee has also focused on developing a model for future SEAT trainings.

2012 Webinar Activity

Equity and Ethnicity in Special Education (June/July 2011- 53 Total Participants)

1. The Challenges of Cultural Congruence: What Every Advocate Should Know
 - a. Presenter: Linda James Myers, Ph.D.
2. Addressing Legal Issues of Disability and Race Discrimination
 - a. Presenters: Matthew Engel, Esq., Ron Lospennato Esq.
3. Representing Parents Whose Dominant Language is Other than English
 - a. Presenter: Gabriela Ruiz, Esq.
4. Disproportionality: What Are We Doing About It
 - a. Presenter: Sonja Kerr, Esq.

Special Education Legal Webinar Series (October/December 2011- 143 Total Registrants)

1. Annual Case Law Review
 - a. Presenter: Judith Gran, Esq.
2. Expanding Your Arsenal with Section 504
 - a. Presenters: Mandy Favaloro, Esq. and Carolina Watts
3. Legal Claims for Bullying and Harassment
 - a. Presenters: Catherine Merino Reisman, Esq., Amy Carolla, Esq.
6. Litigating Claims for Unlawful Retaliation and Interference with Rights
 - a. Presenters: Judith A. Gran, Esq., Catherine Merino Reisman, Esq., Selena A. Almazan, Esq.
7. Social Emotional Assessment: Meeting IDEA Requirements
 - a. Presenter: Ann E. Simun, PsyD

Future Webinar series have been discussed as well and the following series have been approved by the Committee

- i. Transition Series – the first in this series was given last year, future topics include:
 1. Obtaining High Quality Transition Services in the Face of a Myriad of Obstacles: Lessons Learned, Matthew Engel, TBD
 2. Member Cheryl Poe has suggested that Dr. Jeffrey Katz could possible do a webinar on what parents and young/adults should know about the transition from high school to college
- ii. Reviewing Assessments – the committee has discussed having a SLP, OT, etc., and other professionals conduct trainings on reviewing assessments.
- iii. Given the popularity of the legal series in June/July 2011 we may want to consider other possible more specialized legal topics
 1. Conservatorships
 2. Manifestation Determinations
 3. Expulsion Hearings
- iv. The Committee is going to develop a survey to determine possible other topics COPAA members want to see in webinar series.

Special Education Advocate Training (SEAT®) Training

The Committee is pursuing the implementation of the SEAT® Curriculum as a hybrid model of live teaching and web-based instruction. The committee discussed the fact that this model could be difficult to implement in areas where there are not qualified trainers to

conduct in-person training. Instructors should include an advocate and an attorney; be active COPAA Members; have 5 years experience (attorneys in practice and 2 years in special education law; advocates 5 years in volunteer or paid position); have recommendations from advocates, attorneys and parent clients; and have significant presentation experience.

The Committee believes a practicum component is vital, but again, it would be difficult to implement in areas that are currently underserved. Recommend that technological solutions are explored. The Committee has discussed exploring grants and partnering with other organizations on the SEAT® Training in order to get funding and yield better quality results and more person power to implement the model.

Financial Information

Assets	2011	2010
Cash	211,917	177,829
Certificates of Deposit	7646	35,361
Grants and Receivables	1629	50
Prepaid Expenses	7,646	5,854
Property and Equipment	4807	6459
Deposit	200	200
Accounts Payable	13,904	4,899
Accrued Expenses	7,529	9,238
Deferred Revenue	73,756	58,067
Total Current Liabilities	95,189	58,067
Unrestricted	117,829	115,745
Temporarily Restricted	13,181	11,941
Net Assets	131,010	167,686
Total Liabilities and Net Assets	226,199	225,753

Support and Revenue	2011	2010
Donated Services	880,820	451,538
Conference Revenue	154,910	126,170
Membership Dues	91,732	90,405
Contributions	9,734	2,493
Interest	1,429	1,985
Other	12,790	14,644
Total	1,151,415	687,235
Net Assets Released from Restriction	4,792	8,218
Total unrestricted support and revenue	1,156,207	695,453
Expenses		
Program Services	1,102,436	641,101
Management and General	91,687	93,809
Total expenses	1,194,123	734,910
Change in unrestricted net assets	(37916)	(39457)
Temp restricted net assets	6,032	5,664
Net assets released from restriction	(4792)	(8,218)
Change in temporarily restricted net assets	1,240	2,544
Change in net assets	(36,676)	(42,011)
Net assets, begin/year	167,686	209,697
Net assets, end/year	131,010	167,686