

MEMORANDUM

TO: Senator Rebecca Millett, Senate Chair
Representative Victoria Kornfield, House Chair
Joint Standing Committee on Education and Cultural Affairs

FROM: Advisory Committee on the Independent Review of the State's Early Childhood
Special Education Services

DATE: November 4, 2020

RE: **Recommendations on the Phase I Report of the Independent Review of the
State's Early Childhood Special Education Services**

The Advisory Committee for the Independent Review of the State's Early Childhood Special Education Services ("Advisory Committee") was established pursuant to Public Law 2019, Chapter 343, Part VVVV, section VVVV-4 to advise the Executive Director's Office and the Joint Standing Committee on Education and Cultural Affairs on matters relating to the development of the request for proposals and subsequent contract for the independent review of the State's early childhood special education services.

Under the contract entered into with Public Consulting Group, Inc. ("PCG"), the independent review has two major components:

- A Phase I report that includes an objective evaluation of Maine's early childhood special education services and the development of recommendations for an early childhood special education services program plan for the provision of IDEA Part C and Part B-619 services; and
- A Phase II report that includes an implementation plan for the provision of IDEA Part C and Part B-619 services that is informed by the review and analysis conducted pursuant to Phase I and as directed by the Joint Standing Committee on Education and Cultural Affairs upon the presentation of the Phase I report.

In addition, at PCG's request, the contract was amended to include a full-scale Cost Study Report as a subcomponent of the independent review to inform the Phase I and Phase II reports.

The Advisory Committee received a draft of the Phase I Report on October 1st and held virtual meetings on October 5th, 20th, and 26th, 2020, to review drafts of the Phase I report and make the following substantive recommendations and comments.

Advisory Committee Recommendations

Overall the Draft Phase I Report and the Cost Study Report provide a lot of information and data. Both reports emphasize that Child Development Services ("CDS") has been historically

underfunded and the Advisory Committee urges the Legislature to address the funding issues regardless of which path forward the Legislature chooses.

However, there are still a lot of unanswered questions and areas of concern that are highlighted throughout the recommendations listed below. There are some gaps in knowledge that are evident in this report due, perhaps in part, to the fact that not all stakeholders were interviewed by PCG.

In addition, many recommendations require much more detail and clarity before members feel that they can form an opinion. Some recommendations below, especially in regard to any potential plan to transition Part B-619 services to School Administrative Units (“SAUs”), are recommendations to obtain more information and detail on any potential implementation plan, as opposed to a full endorsement of that recommendation. Although PCG has provided some alternative implementation plans, the Advisory Committee was disappointed that they were not presented with a larger array of options for the provision of early childhood special education services.

The Advisory Committee looks forward to reviewing the Final Phase I Report and the Phase II Report, and engaging with 130th Legislature’s Joint Standing Committee on Education and Cultural Affairs through public hearings and work sessions on any possible legislation that arises from these reports.

Overall, the Advisory Committee is supportive of an implementation plan for the creation of an early childhood cabinet-level department for the provision of Part C services, separating the Part C regulations from the regulations for older children, the need for more and adequate funding for all early childhood special education services, increased braided funding, improved MaineCare billing processes, and expanding the State’s Part C eligibility criteria. The Advisory Committee also supports designating the Maine Department of Education (“DOE”) as the state agency for the administration of Part B-619 services instead of the current status of CDS as a quasi-independent state agency.

The Advisory Committee has many concerns, as outlined below, regarding the transition of the provision of Part B-619 services to SAUs, and did not reach consensus as to the best path forward. However, the Advisory Committee has attempted to identify the areas of concern and what additional information would be useful in the Phase II report. Throughout the Phase II report, the Advisory Committee further suggests that any implementation plan should clearly delineate what is included in cost estimates and how it will affect local budgets, as well as the overall State budget (for example, whether transportation costs are included) to ensure identification of areas where there may be additional or unexpected costs.

The Advisory Committee as a whole rejected one recommendation unanimously: The Advisory Committee does not support including Part B-619 *draft* Recommendation 3.3 (evaluating the benefits of Chapter 676 that allows children who turn 5 between Sept 01 – Oct 15 (*sic*) to remain

in IDEA Part B-619 services and to transition to kindergarten the following year) in any implementation plan. *[Please note: PCG has revised this recommendation in the Final Phase I Report. Please see Part B-619 recommendation 3.3 on page 18 for the revised recommendation].*

Below, you will find each PCG recommendation followed by the Advisory Committee's own recommendation or comments. Please note that this memorandum was developed on the basis of the *draft* Phase I Report and prior to the receipt of the Final Phase I Report. Because of this, there may be discrepancies between the recommendations listed below and those in the Final Phase I Report submitted by PCG.

Early Intervention (Part C) Recommendations

1. Governance/Administration Recommendations

PCG Recommendation:

- 1.1. **State lead agency** - DOE be officially designated as the lead agency for the administration of Early Intervention (EI) Part C and that CDS administration for the program be moved within the DOE. The lead agency having responsibility to implement a statewide system of early intervention in accordance with the federal IDEA Part C regulations, including: child find and public awareness; a comprehensive system of professional development; personnel standards, data collection; required general supervision system to monitor for compliance, correct noncompliance, facilitate improvement, support practices that improve results and functional outcomes for children and families, as well as ensuring the provision and funding of all required early intervention services.
- 1.2. **Administrative Office** - EI Part C be administered within the early childhood education office, along with Head Start Collaboration and Pre-K

Note: PCG also recommends that Maine consider exploring the development of a cabinet level early childhood department that would bring together all early care and education programs within a consolidated governance structure as is occurring in states across the country.

Advisory Committee Recommendation:

The Advisory Committee unanimously endorses that the Joint Standing Committee on Education and Cultural Affairs move forward with an implementation plan for the development of a cabinet level early childhood department that would bring together all early care, developmental screening and education programs within a consolidated governance structure.

Members of the Advisory Committee were generally in agreement that CDS as a quasi-independent State agency under the umbrella of DOE for Part C services was confusing and not ideal. However, there was some disagreement as to whether it makes more sense to have DOE or DHHS as the lead agency. Members noted that there are some positives to DOE as the lead agency, such as a smoother, timely transition from Part C to Part B-619 services and that DOE has a strong training module, but that there is also a lack of trust in DOE by the medical community and the public health service sector. Alternately, members noted that DHHS has greater connections with pediatricians and the public health universe and a stronger connection to disability, which is crucial. Additionally, Head Start funding currently goes through DHHS. Ultimately, members of the Advisory Committee felt that having an early childhood department as the primary structure would eliminate some of the inherent conflicts of interest and, depending

on what sort of regional structures are put in place, could also provide the opportunity for building in better oversight and improved Child Find.

PCG Recommendation:

- 1.3. **Consolidated regional office structure** - EI Part C to establish a reduced number of regions with 1-3 counties (regions to be aligned to county boundaries). Regional offices to include managers and staff to provide 1) accountability and monitoring; 2) outreach and child find 3) training and technical assistance. Service coordinators may also be located in satellite offices within the region or in home offices to maintain proximity to families and providers throughout the region.

Advisory Committee Recommendation:

PCG had initially proposed a consolidated regional structure to be aligned to county boundaries. The Advisory Committee did not reach a consensus on this initial recommendation. While some members expressed no objection, other members are concerned that establishing county boundaries would create a capacity issue (for example with office space), and that it would impose an unnecessary fiscal burden on the whole process to reorganize.

PCG Recommendation:

- 1.4. **EI provider agency contracts** - EI Part C to contract with provider agencies through a Request for Proposal (RFP) process, aligned to state procurement rules. The EI Program should decide whether more than one provider agency can be awarded a contract for a county with a high service need or population. The contracted early intervention provider agencies would be responsible for conducting: child find (including screening); comprehensive developmental evaluations; ongoing assessments; and for ensuring the provision of all sixteen required early intervention services in accordance with IDE Part C. Contracted EI agencies would utilize a mix of employees, sub-contracts and arrangements with other providers (e.g. health, medical, audiology) and would be monitored to ensure compliance with federal and state regulations, accurate data entry and performance measure achievement.
- 1.5. **Service coordination** - Service Coordination to continue to be provided by state employees through the regional offices, including intake, coordination of the evaluation and eligibility determination, development of the IFSP, coordination of services and supports and the transition to preschool at age 3.

Advisory Committee Recommendation:

Members of the Advisory Committee expressed confusion regarding these recommendations and unanimously advise the Joint Standing Committee on Education and Cultural Affairs to request

more clarity and details regarding how service provisions would be structured, including but not limited to the following:

- Ideally there should be three layers to ensure proper oversight and eliminate conflicts of interest: an early childhood office, the regional offices (whether through their current structure or by county as recommended by PCG) and then who is actually providing the services;
- Any implementation plan should include a plan for keeping the providers the State currently has; and
- Any implementation plan should consider reinstating what were formerly known as regional “Advisory Boards” made up of representatives from DOE, SAUs, contract providers, and parent representatives, at a minimum.

PCG Recommendation:

- 1.6. **EI program regulations** - EI Part C to develop a new brand name, reflecting the new governance (see 3.1 regarding branded campaign).

Note: Other states have used names such a First Steps, Early Start, Early Steps, Birth To Three, etc.

Advisory Committee Recommendation:

The majority of the Advisory Committee supports the recommendation for new branding. Members noted that there is some stigma associated with the current CDS. However, one member is opposed to the recommendation because there is the potential for a branding campaign to be quite costly.

PCG Recommendation:

- 1.7. **EI program regulations** - EI Part C to develop separate regulations for early intervention IDEA Part C that disentangle them for requirements for older children, making requirements clearer and easier to follow for staff, providers, collaborating partners and parents.

Advisory Committee Recommendation:

The Advisory Committee unanimously supports this recommendation.

PCG Recommendation:

- 1.8. **Reconstitute the Interagency Coordinating Council (ICC)** – Ensure that required ICC members are appointed, meetings are held, and duties are carried out in accordance with IDEA Part C federal regulations. Support the effective functioning of

the ICC using Federal IDEA Part C grant funds for meeting coordination, public notice, minutes and travel costs for members (especially parent members) to attend. Consider establishing the local ICCs at the regional level to advise on Part C issues and to feed information and recommendations up to the state-level ICC.

Advisory Committee Recommendation:

This recommendation was added after the Advisory Committee’s last meeting. Accordingly, the Advisory Committee has not had the opportunity to take a position on this recommendation.

2. Funding

PCG Recommendations:

- 2.1 **MaineCare billing expansion** - EI Part C to renew billing to MaineCare for service coordination and special instruction (sometimes defined as ‘developmental instruction’/’developmental therapy’ in state Medicaid policy). Under federal IDEA Part C regulations special instruction includes working with the infant or toddler with a disability to enhance the child’s development across domains including communication, gross and fine motor, adaptive, social and emotional. Service coordination may be funded under targeted care management. Both services were funded by MaineCare in the past and are consistently funded in other states.

Note: Discussions have already begun with MaineCare regarding what it takes to bill service coordination (potentially under Targeted Case Management).
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- 2.2 **MaineCare early intervention policies** – Continue collaboration with MaineCare to develop specific ‘early intervention section’ (separate from a school-based section) of the MaineCare Benefits Manual that includes service definitions, billing codes, modifiers and rates for all reimbursable early intervention services. These can be used within the central billing system (see 2.5) to ensure that billing documentation and claiming processes meet MaineCare requirements and prevent audit exceptions. This will also ensure clear and consistent use of modifiers which is necessary for the accurate calculation of the state match (seed) associated with IEP authorized education services. These new codes and billing processes should be clearly and effectively communicated to all providers.

Advisory Committee Recommendation:

The Advisory Committee unanimously supports both of these recommendations.

PCG Recommendation:

- 2.3 **Early intervention rate study** - Conduct a rate study to develop rates that address the costs of providing early intervention services, including preparation for services, travel and report writing. The development of rates for evaluation and assessment should also be included. If adopted, the EI program should engage with MaineCare in order to standardize rates of reimbursement for services provided to MaineCare eligible and non MaineCare eligible children.

Advisory Committee Recommendation:

The Advisory Committee has concerns regarding current rates, in particular a member of the committee indicated that there is an issue with MaineCare rates being different than the CDS Part C treatment rates, and that there is a study going on currently regarding rates. However, members also noted that a full rate study takes a long time, and that perhaps PCG could including in any implementation plan a shorter rate investigation so as to not delay this issue further.

PCG Recommendation:

- 2.4 **Early intervention private insurance statute** - Amend private insurance legislation ‘Title 24-A Chapter 35 § 2847-S Coverage for children’s early intervention services’ to include 1) coverage of additional early intervention services (including special instruction by developmental specialists); 2) removing or raising the annual cap; and 3) changes “referral form the children’s primary care provider” to “for children who meet the State’s eligibility criteria for early intervention and services provided in accordance with their Individualized Family Service Plan (IFSP).”

Advisory Committee Recommendation:

PCG’s initial recommendation was to pass private insurance legislation that mandates coverage of early intervention services in line with MaineCare as the public insurance payor. After receipt of the draft report, PCG noted that they were unaware that Maine already has private insurance legislation (*see* 24-A MRSA, §§ 2747-S, 2847-S, 4258 for mandated coverage for children’s early intervention services). The recommendation above is the revised recommendation. Members of the Advisory Committee suggest that the Joint Standing Committee on Education and Cultural Affairs consider requesting that the Bureau of Insurance provide information regarding how these insurance mandates work and how this and other mandates have been utilized thus far.

PCG Recommendation

- 2.5 **Central Billing System** – Develop a central billing system to process claims to MaineCare and private insurance that maximizes revenue through automation and efficiencies. Delivered services data (e.g. <number of minutes> of <service> provided on <date> to <child> at <location> by <therapist name> <therapist number>) from SAUs and contracted providers would be collected through a central web-based electronic data system. The data is then converted and processed into claims by either state employees or through a billing agent. A decision would be made regarding whether the payment would go directly from the private insurance plan and / or MaineCare directly to the contracted provider OR on pay-and-chase basis where the state reimburses the contracted provider and ‘chases’ the 3rd party reimbursement from the private insurance plan and / or MaineCare. Both options are utilized in other states.

Advisory Committee Recommendation

In conjunction with the same recommendation in Part B-619 services, the Advisory Committee was confused about how the centralized billing system would work and who would use it. The revised final report gives more information, but the Advisory Committee has not had the opportunity to take a position on this revised recommendation.

3. Service Delivery

PCG Recommendation:

- 3.1 **Branded campaign** – Using federal IDEA Part C grant funds to develop a branded campaign for early intervention (using the new program name see 1.6 above) to include website, social media, materials (posters, brochure, developmental chart, promotional materials etc.) and have regional offices conduct outreach and child find to increase the number of infants and toddlers served, while promoting awareness and collaboration with local, potential referral sources.

Advisory Committee Recommendation:

In accordance with recommendation 1.6 above, the majority of the Advisory Committee supports a new branding campaign, but one member is in opposition due to concerns about the potential high cost.

PCG Recommendation:

- 3.2 **Child Find Plan** – Establish a standing committee of the ICC (with partners from public health, Academy of Pediatrics; child care, home visiting, etc.) to develop and oversee implementation of statewide child find plan.

Advisory Committee Recommendation:

This recommendation was added after the Advisory Committee’s last meeting. Accordingly, the Advisory Committee has not had the opportunity to take a position on this recommendation.

PCG Recommendation:

- 3.3 **Eligibility Criteria** - Consider changing the state’s eligibility criteria to enable more children with less significant developmental delays to be served.

Note: Currently Maine is one of 16 states with such a narrow / restrictive eligibility criteria.
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Advisory Committee Recommendation:

The Advisory Committee unanimously supports this recommendation.

PCG Recommendation:

- 3.4 **Competencies, training & practice-based coaching** - Develop competencies and the associated training for all early intervention providers that incorporates the evidence-based Routines-Based Early Intervention (FBEI) model and other Part C key principles and practices referenced earlier in this report. It is also recommended that this training make use of web-based learning along with classroom-based instruction and incorporated practice-based coaching. Continue to ensure fidelity in implementing FBEI under the State’s federal State Systematic Improvement Plan (SSIP).

Advisory Committee Recommendation:

While the Advisory Committee is not opposed to the incorporation of the Routines-Based Early Intervention Model, members are concerned about specifically naming a particular model as the only model. Members felt that it is never wise to include only one model and that there is plenty of room for multiple models. The Advisory Committee agrees that the services should be individually-based on the child’s needs.

Early Childhood Special Education Part B-619 Recommendations

1. Governance/Administration Recommendations

PCG Recommendations:

- 1.1. **Designated state agency:** The Maine Department of Education (DOE) to be officially designated in state statute as the state agency for the administration of Part B-619 services for children with developmental delays and disabilities 3 through 5. PCG recommends a transition period for this change of administration from CDS to DOE, as described in 1.6 below.
- 1.2. **Administrative Office:** Administration of Part B-619 services at the DOE to be within the Office of Special Services, along with K-12 special education services. Regular planning and coordination with staff from the Office of Early Childhood Education is also recommended.

Advisory Committee Recommendation:

The Advisory Committee unanimously supports the recommendation that DOE be officially designated in statute as the state agency for the administration of Part B-619 services for children with developmental delays and disabilities for children 4-5 and that the administration be within the Office of Special Services, along with the K-12 special education services. Members did discuss that the administration of services through an early childhood department as recommended for Part C services makes sense from a developmental standpoint. However, members ultimately felt that because the IDEA regulates students from age 3-20, it makes more sense to track with the IDEA and have DOE administering ages 3-5. Members did note the importance of cross collaboration between DOE and DHHS for this population. Ultimately, the Advisory Committee discussed, but did not reach consensus, that the Joint Standing Committee on Education and Cultural Affairs may want to consider including 3 year old's under the guise of the new Early Childhood Department where the 3 year old's family can choose the IFSP or the IEP model.

Members did not reach consensus about the transition period for this change of administration as described in recommendation 1.6 below. Please see recommendation 1.6 below for additional discussion on this recommendation.

PCG Recommendations:

- 1.3. **619 state staff:** Administration of Part B-619 services at the DOE to include a 619 Coordinator and team of early childhood special education specialist staff to assist in the statewide implementation of Part B-619 services by SAUs, including: 1) accountability and monitoring; 2) inclusion support and community systems building; and 3) training and technical assistance.
- 1.4. **Designate SAUs to provide 619 services:** SAUs to be officially designated in state statute as responsible for the provision of Part B-619 services in accordance with federal

and state regulations for all eligible children with developmental delays and disabilities ages 3 through 5 in their catchment area.

- 1.5. **Revise state regulations:** Revising the current Maine Unified Special Education Regulation (MUSER) to include the new administrative structure, including the provision of Part B-619 services by SAUs.
- 1.8 **SAU Transition planning:** Support all SAUs to develop a preschool special education transition plan in year 1 through a team process to include parents and community partners. Each transition plan to address: number of children 3-5 with disabilities projected to be served; their current placements; projected placements; community partner agreements with Head start and child care; opportunities to expand Pre-K; any needed space / facility needs; personnel needed (hiring / contracts); identification of technical assistance needs for topics such as, recommended practices for serving young children, early childhood outcomes, reporting required data and the use of the fiscal toolkit to address opportunities to braid funding.
- 1.9 **Inclusive early childhood education guidance document:** Develop state guidance for SAUs and community early childhood providers regarding the implementation of inclusive early childhood services (drawing on national and other state documents).

Advisory Committee Recommendations:

The Advisory Committee did not reach consensus regarding the recommendations implementing the provision of Part B-619 services by SAUs, and even members who are not generally opposed to such implementation at some point, raised concerns in a number of areas and felt that there was not sufficient information in the report to fully endorse any particular recommendation.

Members recognized that they would probably not be able to determine their levels of support or opposition until they are actually able to see a full implementation plan. However, members of the Advisory Committee also recognized that without more information on an implementation plan, it will be difficult to make additional decisions about the best ways to provide services. Members debated whether it makes sense to ask for an implementation plan for SAUs, not as an endorsement of the plan, but as a means to better understand what implementation would look like. In order to best advise the Joint Standing Committee on Education and Cultural Affairs, the Advisory Committee recommends that the Joint Standing Committee on Education and Cultural Affairs be aware of the following areas of concern and, should any implementation plan include moving the provision of services to SAUs, consider the following:

- Transition period: How long should any transition be? (see comments on recommendations 1.6 below)
- Physical spaces: What kind of physical spaces currently exist, where will the children be physically located, is there sufficient space, and where there isn't sufficient space, how will sufficient facilities be built or expanded to provide for appropriate spaces and where will the funding for these projects come from? Are there different options for physical space?

- Universal Prekindergarten: Because universal pre-kindergarten is not fully implemented across the State, would schools be required to start or expand programs? How would serving this new population of children effect schools that currently have programs based on, for example, a lottery system?
- Certification: What will the appropriate certification be for those providing these services and what changes or additions are needed to Maine’s current certification regulations?
- Qualified staffing: What implementation steps are necessary to ensure qualified staffing throughout all districts?
- Local funding: How will funding at a local level be increased without increasing property taxes?
- EPS: Given the considerations regarding local property taxes, is utilizing the EPS funding formula the best funding mechanism or is there a better funding mechanism outside of the EPS funding formula?
- Current and new service providers: What implementation steps are necessary to ensure that the State doesn’t lose the service providers it currently has, and where there are insufficient service providers, what steps will be necessary to increase service providers?
- Contracted providers/employees: How will any transition impact current contract providers and how will SAUs navigate using contracted providers or hiring employees of the district? If SAUs use contracted providers, how will supervision work? How will funding be impacted?
- Consistency in programs: What implementation steps are necessary to ensure consistency in services throughout the State and how and who determines program details such as length of the school day?
- Community providers: What steps would be necessary to ensure integration with community providers and what steps and resources will be needed in areas where there are not currently community providers?
- Least restrictive environment: How will students be served in the Least Restrictive Environment and what guidance will be necessary for ensuring the least restrictive environment in different types of settings or in areas where a community does not have a prekindergarten program?

PCG Recommendations:

- 1.6. **Transition Period**: Establish a transition period of 3 full school/fiscal years (e.g. if legislation was passed in March 2021 – the transition period would be July 2021 – June 30, 2024), providing support and direct funding options for ‘early adopter’ SAUs to provide IDEA 619 services to children 3-5 after 2 years.
- 1.7. **State-level transition leadership team**: Establish a state-level transition leadership team to work during the transition period to address identified state-level funding, facility, statute and policy changes, workforce and training and professional development, technical assistance. The state-level transition leadership team be assigned to complete ‘ECTA Systems Framework’ IDEA Part B 619 self-assessment, including the

governance, accountability & quality improvement and finance sections and using the results during the transition period as part of the implementation planning.

Advisory Committee Recommendation:

PCG initially recommended a transition period of two years, and the Advisory Committee debated the positives and negatives of a two-year transition timeline and ultimately were not able to reach an agreement as to the best timeline for the transition period. PCG revised its recommendation in the final report to the recommendation listed above. The Advisory Committee's discussions ultimately focused not on the two-year transition alone, but on the broader concerns of a transition plan that meets the needs of everyone and what possible phase-in options could alleviate concerns. Thus, the Advisory Committee's considerations for the Joint Standing Committee on Education and Cultural Affairs remain as follows:

Members of the Advisory Committee feel that there are far too many unknowns at this point and that the two-year transition is far too short. Members advocated for a period of closer to three to five years, although even some members conceded that that could be too short. Areas of greatest concern include physical space, staffing, funding, and billing.

However, other members noted that a longer transition will create complications and uncertainty for the current CDS staff and administration. Members are concerned that contract providers will not invest in a system that's going away, there will be a loss of providers, resources and that CDS would fall apart before the SAUs are ready to fully implement services.

This discussion led the Advisory Committee to focus on how a possible phase-in of services could look, and what possible implementation options PCG could provide. Examples that had support include possible pilot programs, either developed in areas with the greatest need or based on SAUs that are willing and able to pilot a program, or perhaps starting with implementation only for the 4 year olds and allowing the 3 year olds to continue receiving services through the early childhood department that was recommended in Part C.¹ However, members did note that a phased-in approach would necessarily shift funds in a way that could be financially very painful; to be successful any phased-in approach would need to examine how to everyone involved would have the resources necessary to provide the services.

Finally, the Advisory Committee also discussed the positives and negatives of starting with an implementation plan focused solely on funding considerations, and then perhaps implementing structural changes later.

PCG Recommendation:

- 1.10. **619 representation:** Ensure IDEA Part B-619 representation on the state IDEA panel, Children's Cabinet and other early childhood planning initiatives.

¹ Members did note that it would be important to allow three year olds the opportunity to stay in the coaching model or go to the IEP model depending on what the child is ready for, and that it would be advantageous to work on a school-year model, rather than a birth date, as transition between the two in the middle of a school year would be difficult.

Advisory Committee Recommendation:

Members of the Advisory Committee did not raise any objections to this recommendation.

2. Funding Recommendations

PCG Recommendations:

- 2.1. **Central billing system:** Develop a central billing system to process claims to MaineCare that maximizes revenue through automation and reduction in administrative burden on SAUs. Delivered services data (e.g. <number of minutes> of <service> provided on <date> to <child> at <location> by <therapist name> <therapist number>) from SAUs and any contracted providers would be collected through a central web-based electronic data system. The data is then converted and processed into claims by either state employees or through a billing agent. SAUs and contracted providers would receive payment directly from MaineCare.
- 2.2. **MaineCare ‘special education services’ section:** Continue working with MaineCare to develop clear ‘special education services’ section of the MaineCare Benefits Manual that includes service definitions, billing codes, modifiers and rates for all special education and related services reimbursable services. These can be used within the central billing system to ensure that billing documentation and claiming processes meet MaineCare requirements and prevent audit exceptions. This will also ensure clear and consistent use of modifiers which is necessary for the accurate calculation of the state match (seed) associated with IEP authorized education services.

Note: PCG also recommends that Maine consider a central claiming for K-12 special education that has the potential to generate significant review statement, due the current reluctance of many SAUs to process claims to MaineCare, citing the administrative burden and fear of audit paybacks. PCG was also informed of a current disincentive to MaineCare claiming in the EPS funding formula as a result of special education staff costs being reimbursed retrospectively.

Advisory Committee Recommendation:

Members of the Advisory Committee indicated that there was not sufficient information to fully support or object to this recommendation. The Advisory Committee advises the Joint Standing Committee on Education and Cultural Affairs to request more clarification from PCG on this recommendation, including but not limited to:

- How would the centralized billing work and who would use it?
- How will this address the concern from SAUs regarding MaineCare audits?
- Who is responsible for costs if the insurance company does not make payment or makes an overpayment?
- How can the State ensure payment equity between rates the State pays and the rates that MaineCare pays, especially in relation to SPPS?

PCG Recommendation:

- 2.3 **Rate Study:** Working with MaineCare to conduct a rate study to determine the costs of providing reimbursable special education and related services.

Advisory Committee Recommendation:

As indicated in Part C recommendations, there is concern about the length of time necessary for a full scale rate study; the Advisory Committee recommends a shorter rate investigation to prevent unnecessary delays.

PCG Recommendation:

- 2.4 **Funding of 619 services:** Fund 619 preschool special education services through SAUs utilizing either:
- 2.4.1 EPS special education funding formula by SAUs – with use of the \$30 million state appropriation currently received by CDS to offset the local cost (no more than 50% local cost for special education). SAUs would also receive MaineCare; IDEA 611 and IDEA 619 funds and can utilize inclusive Pre-K, Head Start and child care placements.
 - 2.4.2 Per child allocation to SAUs utilizing the current \$30 million state appropriation currently received by CDS. SAUs would also receive MaineCare; IDEA 611 and IDEA 619 funds and can utilize inclusive Pre-K, Head Start and child care placements.

Advisory Committee Recommendation:

PCG's initial draft recommended using current CDS state funding allocation to help offset the local cost to towns that comes with funding these children through the EPS formula. As referenced previously, the Advisory Committee is concerned about the potential increase in costs to local towns and the use of funding this population through the EPS funding formula. Although the revised recommendation provides two different methods of funding, the Advisory Committee suggests that the Joint Standing Committee on Education and Cultural Affairs should request that the Phase II report very clearly explain how funding from a local level will be increased without a corresponding increase in property taxes.

PCG Recommendation:

- 2.5 **Review of current children with high costs:** Conduct a review of the current children with high annual cost to determine the appropriateness of the intensity of services they are receiving and determine whether they are being served in the least restrictive environment. Currently 785 children aged 3-5 eligible for IDEA Part B-619 have annual costs over \$20,000.

Advisory Committee Recommendation:

The Advisory Committee expressed some confusion over what this recommendation entails. Accordingly, the Advisory Committee makes no specific recommendation.

PCG Recommendation:

- 2.6 **Fiscal toolkit:** Develop a fiscal toolkit for SAUs to look at how to braid funding streams and maximize partnerships with other early childhood providers (Head Start, child care, Pre-K) and contracted providers to effectively serve preschool children with disabilities under IDEA Part B-619.

Advisory Committee Recommendation:

The Advisory Committee supports looking more at braided funding streams and maximizing partnerships with other early childhood providers. The extent this recommendation applies to SAUs in any implementation plan will depend on the Joint Standing Committee on Education and Cultural Affairs' decisions on previous recommendations.

3. Service Delivery Recommendations

PCG Recommendation:

- 3.1 **Training and professional development:** Develop training and other professional development opportunities (webinars, online asynchronous course) on inclusion of children with disabilities in early childhood education for a variety of audiences, including school administrators and boards; teachers and other instructional staff; parents and community partners. Training and professional development to include development of IEPs including the special education and related services to address the individualized developmental needs of each child and the determination of the least restrictive environment/setting for the child.

Advisory Committee Recommendation:

The Advisory Committee did not raise any objection to this recommendation.

PCG Recommendation:

- 3.2 **Pyramid Model:** Develop a cross early childhood program (Head Start, Pre-K, child care, IDEA Part B-619) leadership team to develop a plan for implementation of the Pyramid Model in order to promote the use of evidence-based practices for promoting young children's healthy social and emotional development and effectively addressing challenging behaviors through a tiered intervention approach.

Advisory Committee Recommendation:

The Advisory Committee generally supports the development of a cross early childhood program leadership team, and while not opposed to the implementation of the Pyramid Model, members are concerned about specifically naming a particular model as the only model. Members felt that it is never wise to include only one model and that there is plenty of room for multiple models.

PCG Recommendation:

- 3.3. **Chapter 676 training:** Include in training consideration of Chapter 676² (which currently allows children who turn 5 between July 01 – Oct 15 to remain in IDEA Part B-619 services and to transition to Kindergarten the following year) as it applies to the IEP Individualized Education Program (IEP) decisions made individually for each child. With IDEA Part B-619 services provided through SAUs it is likely that fewer IEP teams will determine the need for a child to continue to receive 619 preschool special education rather than transition to Kindergarten

Advisory Committee Recommendation:

PCG initially recommended evaluating the benefits of Chapter 676 that currently allows children who turn 5 between Sept. 01 – Oct 15 to remain in IDEA Part B 6-19 services and to transition to kindergarten the following year. The Advisory Committee unanimously objected to moving forward with this recommendation in the Phase II report. Members of the Advisory Committee noted that: (1) the date range in the recommendation is inconsistent with current Maine law³; and (2) children who are not receiving Part B-619 services have the choice of whether to go to kindergarten, or not, at that age and that children with disabilities should not be required to begin kindergarten when their non-disabled peers do not have the same requirement.

Because this recommendation was substantially revised after the Advisory Committee's last meeting, the Advisory Committee has not had the opportunity to take a position on this revised recommendation.

PCG Recommendation:

- 3.4 **Use of developmental delay eligibility category:** Consider using the eligibility category of developmental delay more widely. Train and encourage evaluation teams in the use of the developmental delay category of eligibility.

Advisory Committee Recommendation:

The Advisory Committee did not raise any objections to moving forward with this recommendation.

² This refers to Public Law 2003, chapter 676 (LD 1960 from the 121st Legislature, Second Special Session).

³ 20-A MRSA §7001(2-A), in defining “free, appropriate public education” includes that “Child Development Services System shall provide free, appropriate public education to a preschool child with disabilities who reaches 5 years of age between July 1st and October 15th if that child is already receiving free, appropriate public education through the Child Development Services System and the child's individualized education program team determines, in accordance with rules adopted by the commissioner, that it is in the best interest of the child not to enroll that child in kindergarten until the start of the following school year.”