

III. Education

All children in the United States are entitled to a publicly funded education. Students with disabilities are also entitled to services and supports that assure that the education they receive is appropriate to their individual needs (called “special education”). The previous chapter of this report addressed the developmental and early learning needs of infants and toddlers from birth to age three. Under federal law, the transition for children with disabilities from the Part C Early Intervention system to the public education system begins at age three. Virginia, however, adopted the option of making the transition to preschool special education services (Part B) for eligible children as early as age two.

Positive developments have occurred in the educational arena. The **Virginia Department of Education (VDOE)** has continued to engage in activities designed to improve outcomes and services that will benefit students with disabilities. These activities have included, but are not limited to:

- extensive provision of training and technical assistance to school divisions statewide;
- redesign of the Virginia Alternate Assessment for Students with significant disabilities;
- development, with the support of stakeholders, of *Guidelines for the Development of Policies and Procedures for Managing Student Behaviors in Emergency Situations* (focused on limiting the use of seclusion and restraint);
- implementation of the Autism Priority Project; and
- a continued focus on student self-determination initiatives.

A key change recently was the revision by the State Board of Education of *Virginia’s Licensure Regulations for School Personnel* (8 VAC 20-22-10 et. seq.), effective September 21, 2007. The new endorsements consolidate four disability categories and address teaching the general curriculum and adapted curriculum. By not requiring a specific disability endorsement, a broader pool of educators will be available to work with students who have diverse disabilities as well as students whose abilities may vary from mild to severe levels. The system will also help to promote a reduced reliance on labeling by disability and an improved focus on the individual needs of the student.

This chapter focuses on special education services from preschool through high school for children with disabilities. Laws and regulations governing education services to students with disabilities are extremely complex and cannot be fully covered within the scope of this chapter. Key provisions will, however, be highlighted.

A. What are Education Services for Students with Disabilities?

Education as it relates to children of compulsory school age can be described as the teaching and training of students to impart knowledge and to prepare them for the future. While

public education in the United States is fundamentally a responsibility of state and local governments, the federal government has had a key role in establishing requirements that ensure the education of students with disabilities, starting with passage in 1974 of Public Law 94-142, the **Education of All Handicapped Act**. That federal statutory milestone has been amended several times and became the **Individuals with Disabilities Education Improvement Act of 2004, P.L. 108-446** (known as **IDEA**). IDEA established the current nationally mandated requirements for a “**free and appropriate public education**” for students with disabilities.

The latest (2004) reauthorization of IDEA brought about a closer alignment with the more generally applicable federal No Child Left Behind Act, P.L. 107-110 (NCLB). In passing the IDEA in 2004, Congress made critical changes that affect services to students with disabilities. Among those changes were the following:

- The requirement that an **IEP (Individualized Education Program)**; see details later in the chapter) include short-term objectives/benchmarks was removed, except in the case of children who are not participating in Virginia’s Standards of Learning (SOL) curriculum and are participants in the alternate assessment system.
- IEPs must now address the transition services needs of the student beginning in the year that he or she turns 16 rather than at age 14 or earlier if necessary, as was previously required.
- The provision that parents of children with disabilities receive notification of their child’s progress at least as frequently as parents of children without disabilities was replaced with a requirement that the IEP specifically identify how a child’s progress will be measured and when parents will be notified of that progress.

The Virginia Constitution sets forth the state’s responsibility for the education of all students in Article VII, Section 1; and the *Code of Virginia* delineates the specific responsibility for the education of students with disabilities in Sections 22.1-7 and 22.1-213-215. The *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (8 VAC 20-80-10 et.seq.) establishes the State Board of Education requirements regarding special education and related services for children with disabilities. These regulations are applicable to all local school divisions, state-operated programs, the Virginia Schools for the Deaf and Blind, and private schools in the Commonwealth that provide special education and related services to children with disabilities.

Collectively, these governing statutes and regulations at the federal and state levels define the purposes and requirements of Virginia’s educational system for students with disabilities. Federal, state, and local funds support the implementation of this system. In addition to providing financial resources, appropriate agencies at all levels conduct research, develop and share technology, prepare personnel, offer technical assistance, disseminate related information, and otherwise provide support. In accordance with legal mandates and utilizing these resources, Virginia’s resulting special education system must:

- Be provided under public supervision and direction, at public expense and without charge.
- Be appropriate to the unique needs of each student as well as to the educational services and environments available for other students of similar age and abilities.
- Include preschool, elementary, middle, and secondary school education.
- Prepare students for further education, employment, and independent living.
- Meet the requirements set by the Virginia Board of Education.
- Be provided in accordance with an Individualized Education Program (IEP).
- Ensure that the rights of children with disabilities and their parents are protected.
- Ensure that parents and educators have the necessary skills and resources to improve educational results for children with disabilities.
- Assess and ensure the effectiveness of the system's efforts to educate children with disabilities.
- Measure student progress and identify when parents are to be notified of that progress.

A priority of the Commonwealth during 2007 has been efforts to revise the *State Regulations Governing Special Education Services for Children with Disabilities in Virginia* to conform to current federal requirements. These efforts are continuing; the state regulatory process can take up to 18 months. Virginia's special education regulations have historically offered more protections for students and their families than federal regulations. Following a Pre-Notice of Intended Regulatory Action and an initial public comment period, draft state special education regulations were presented to the State Board of Education in September 2007. Advocacy and educational organizations have been, and are, closely reviewing the regulations in order to provide public comment designed to influence their final content and to ensure that key provisions protecting family and student involvement in the education process as well as the rights of students are maintained.

Subsequent sections of this chapter will describe the major publicly funded special education services that children with disabilities receive in classroom settings from preschool (kindergarten) through secondary school (commonly referred to as "K-12") levels. These services are provided through Head Start programs, public school divisions (formally known as local educational agencies), the Virginia School for the Deaf and the Blind at Staunton, and the Virginia School for the Deaf, Blind and Multi-disabled at Hampton. Some Virginia children also receive special education services in other settings such as detention centers, local and regional jails, programs operated by the Department of Correctional Education, hospitals, mental health facilities, and state-operated community residential programs. Detailed discussion of the many services provided in those settings is beyond the scope of this report.

B. Who Is Eligible for Education Services?

Head Start: With direct federal funding, local **Head Start** programs provide services to low-income children from birth to age five, with emphasis on those from ages three to five. Federal Head Start Regulations, 45 CFR § 1305, set forth the following specific criteria for participation:

- A child must be at least three years old by the date used to determine eligibility for public school in the community in which the Head Start program is located, except in cases where the Head Start program's approved grant provides specific authority to serve younger children. Examples of exceptions include programs serving children of migrant families and Early Head Start programs.
- At least 90 percent of the children who are enrolled in each Head Start program must be from low-income families.
- Subject to regulation, up to 10 percent of enrolled children can be from families that exceed the low-income guidelines, but who (1) meet the criteria that the local program has established for selecting these children, and (2) would benefit from Head Start services.
- At least 10 percent of enrolled children must be children with disabilities. An exception to this requirement can be granted by federal officials **only** if there is sufficient evidence that the Head Start grantee made a reasonable effort to comply with the requirement, but could not do so because there was an insufficient number of children with disabilities who wished to attend the program and for whom the program was deemed an appropriate placement based on their Individualized Family Services Plan or Individualized Education Program.

Since funding may not be available for every child who meets these basic eligibility criteria, each Head Start program is required to have a formal process for establishing its own additional criteria and for determining selection of children and families. These criteria must ensure that all eligible children are considered; and among other requirements, must also consider the availability (or lack thereof) of kindergarten or first grade for the child. Programs that serve migrant children are required to give priority to children from families who have had to relocate frequently within the last two-year period in order to obtain work.

At the beginning of each program year, each Head Start program must develop a waiting list, which must be maintained throughout that year. In order to ensure that the most-needy eligible children enter the program as vacancies occur, each Head Start program must rank applicants according to the program's selection criteria to assure that those children are served first.

Preschool through Secondary School (K–12) Special Education: In Virginia, children, adolescents, and young adults with disabilities who have not yet reached their 22nd birthday may be eligible to receive special education and related services provided **by local educational**

agencies (otherwise known as public school divisions) and overseen by the Virginia Department of Education.

These include **Preschool** services for children ages two through five. As noted earlier, Part B of the federal Individuals with Disabilities Education Improvement Act (IDEA) mandates that such services be available starting at age three, but Virginia parents have the option of their child's participating in either **Part B Preschool** or **Part C Early Intervention** services between the ages of 24 and 36 months. A separate eligibility determination is required for Part B services from that required for Part C services; and children already receiving Early Intervention services may or may not qualify for special education services following receipt of Part C services. In the best case scenario, successes achieved under the Early Intervention system may eliminate the need for later specialized education and related services.

Eligibility for IDEA Part B special education services at all levels (**preschool, elementary, and secondary levels**) involves a standard process. An **evaluation for eligibility** to receive special education services must address all areas related to the child's suspected disability. Evaluations are generally multidisciplinary and must include an assessment by at least one qualified professional. Typically, more than one professional is involved in an eligibility determination; and the process may involve assessments by all or some of the following: an educational diagnostician, a school psychologist, an occupational and/or physical therapist, a speech language pathologist, and a school social worker. Preschool eligibility follows the same process as eligibility for special education and related services at the K–12 levels, as described below, except that evaluations focus more on developmental milestones versus academic delays.

This group of qualified professionals and the child's parents review the evaluation results. Together they determine whether the child qualifies as having a disability as defined by IDEA. The child must fall within one of the following IDEA categories of disability in order to qualify for special education and related services: autism, deaf-blindness, deafness, emotional disability, hard of hearing, learning disability, mental retardation (intellectual disability), orthopedic impairment, other health impairment, speech/language impairment, traumatic brain injury, visual impairment, or multiple disabilities. A child can also be determined eligible for special education services under the label of "developmental delay" through age 9, depending on the locality in which the child lives.

If the child is found to have a disability as defined by IDEA, he or she becomes eligible for special education and related services, and within 30 calendar days a team must be convened to draft an **Individualized Education Program (IEP)** for the child. Reevaluation of the child must occur at least every three years to determine if the child continues to be eligible for special education services. Reevaluations may not occur more than once a year unless the parent and the public school division agree otherwise. Reevaluations can be based on existing data, or if these data are insufficient, new data can be gathered.

Eligibility criteria do not differ for children who may receive services (Preschool, K–12) through the programs operated by the Virginia Department of Education at the **Virginia School**

for the Deaf and Blind at Staunton (VSDB-Staunton) and the Virginia School for the Deaf, Blind and Multi-disabled at Hampton (VSDBM-Hampton). These programs do have admittance criteria, however, which go beyond the typical eligibility criteria for special education. The Individualized Education Program (IEP) team makes the decision as to whether a student should receive services at **VSDB-Staunton** or **VSDBM-Hampton**; the decision is based on individual needs, and is reassessed annually. The admission process varies for each school, but admission for both schools must be approved before a child can be admitted. Additional information on the history and future of the VSDBs is provided later in this chapter.

If a child's parents disagree with the results of the initial or any subsequent eligibility evaluation, they have the right to request an **Independent Educational Evaluation** at the school's expense. The parents also have the right to appeal the determination of eligibility and any other decisions that affect their child's education. The public school division has the right to contest the need for an IEE and any other parental appeals.

C. How Are Educational Services Accessed and Delivered?

Both preschool and elementary through secondary school services are delivered through **local educational agencies (LEAs)** and **state-operated programs (SOPs)**. LEAs must provide a full continuum of services from least-restrictive placement (the regular education classroom) to the most restrictive placement (homebound or hospital-based instruction). The programs operated at VSDB-Staunton and VSDBM-Hampton are delivered in separate schools and are considered part of the continuum of placements for all children. Preschool services are also provided to some children with disabilities through local Head Start programs.

Head Start: The mission of Head Start is better preparation of at-risk children for school and later achievement. Since its inception in 1972, Head Start has grown nationally to include 1,604 locally based programs administered by a variety of public and private nonprofit organizations. Fifty-four programs currently serve the Commonwealth; of these, 22 are operated by Community Action Agencies while the other 34 are operated through public school divisions, childcare centers, and nonprofit organizations.

The program mission focuses on better preparation of children for school and later achievement. Federal Head Start Regulations, 45 CFR § 1305, require Head Start programs to take a proactive role in informing families about the program and to encourage them to apply. These regulations also specifically require local Head Start programs to locate and identify children with disabilities and to coordinate their activities with those of other Early Intervention and special education programs as well as local health departments and practitioners. Outreach activities suggested in federal regulations to accomplish this are canvassing the local community, use of news releases and advertising, and use of family referrals and referrals from other public and private agencies. Local Head Start programs are required to solicit applications from as many eligible families within their recruitment area as possible, and when necessary, assist those families in completing the application form.

Once a child has been determined eligible for and enrolled in a Head Start program, he or she receives services from the Head Start center staff (and from its affiliated Community Action Agencies, where applicable), local educational agencies (LEAs), and a wide variety of other public and private providers. Reflecting the needs and resources of the communities they serve, Head Start activities may occur in group settings, in the home, or in a combination of the two. Services may be half- or full-day, and may or may not be integrated with child day care. Community assessments determine the appropriate design for each setting. Parental involvement and support are key aspects of all Head Start activities. While there is no fee for Head Start services, parents are expected to volunteer their time and talents to the program.

Each child enrolled in a Head Start program, except those enrolled in a migrant program, must be allowed to remain in Head Start until kindergarten or first grade is available for the child in the child's community. A program can choose not to enroll or reenroll a child, however, if there is a change in family income or if there is a child with a greater need for services. Total Head Start enrollment for fiscal year 2006 was 16,596, which was a slight decrease (-77) from the 2005 enrollment of 16,673.

To meet the needs of children with disabilities and their families, the Head Start staff works closely with a wide variety of community resources to obtain training materials and to identify service providers. Instructional programs for children with disabilities must address the child's individual needs, strengths, and developmental potential as well as family circumstances and resources. Developmental assessments are conducted throughout the year. Disability specialists meet monthly with Head Start teachers and work closely with LEA service providers to monitor each child's progress and to coordinate activities.

Of the children enrolled in school year 2006 in Virginia's Head Start program, 10.9 percent had disabilities compared with a national average of 12.2 percent. The 2006 proportion is slightly lower than the 11.2 percent of children with disabilities enrolled in 2004. The following chart details statewide participation in Head Start by types of disabilities for 2004 and 2006. Between 2004 and 2006, the total number of children with disabilities receiving Head Start services decreased by 142, or 7.4 percent, from 1,928 to 1,786. Children categorized as having a speech/language disability declined in number the most, going from 1,284 participants in 2004 to 1,095 in 2006, a decrease of 189, or 14.7 percent. During this time period, the number of children categorized with autism decreased by 10, which was a decline from 24 to 14 youth, or 41.7 percent. The largest increase was among children categorized as having a developmental delay, who increased in number by 69, or 14.8 percent.

The decrease in children with disabilities being served and the low number compared with other states bears monitoring. Of interest is that the number of children with autism has actually decreased in the last two years. While no conclusions can be drawn, it is possible that lower numbers served may point to more individuals accessing the Part C **Early Intervention** System and/or Part B **Special Education** services systems for more-specialized assistance.

CHILDREN WITH DISABILITIES RECEIVING HEAD START SERVICES IN VIRGINIA

Head Start Disability Category	2004	2006
Autism	24	14
Developmental Delay	467	536
Emotional/Behavioral	25	0
Health Impairment	15	11
Hearing Impairment	15	4
Learning Disabilities	18	46
Mental Retardation	3	5
Orthopedic Impairment	8	6
Speech/Language	1,284	1,095
Traumatic Brain Injury	12	0
Vision Impairment	10	2
Multiple Disabilities	47	58
TOTAL	1,928	1,786

Source: Virginia Head Start

Preschool through Secondary School (K–12) Special Education: The Individuals with Disabilities Education Improvement Act (IDEA) and companion federal and state regulations require that schools receiving federal funds provide eligible students with disabilities with a “free appropriate public education.” As noted previously, statewide outreach activities by local educational agencies (LEAs)—known as **Child Find**—form the first step in determining eligibility for Part B services. Through Child Find, LEAs in Virginia must identify, locate, and evaluate all children with disabilities, including the homeless, who need special education and related services. Specific activities of Child Find range from broad-based public awareness campaigns to individual screenings that evaluate whether children need specialized educational services.

In addition to Child Find, school professionals may ask at any time for a child to be evaluated to determine if he or she has a disability that would require specialized education. Parents may also contact their child’s teacher or other school professionals to request evaluations. All evaluations require written parental consent. Current state regulations require that evaluations must be completed within 65 business days after consent is given.

Once a student has been determined eligible for special education services, an **Individualized Education Program (IEP)** must be developed with 30 days. The IEP is the cornerstone of a high-quality education for each child with a disability. It specifies the special education and related services to be received and identifies the settings in which those services will be delivered. An IEP is similar to the **Individualized Family Services Plan (IFSP)** previously described for the Part C **Early Intervention** system, but once past the preschool years, the IEP tends to be less family-centered. An IEP focuses specifically on the educational needs of the student and on the services provided through the education system.

To create an effective IEP, parents, teachers, other school staff members, and often the student as well, come together to look closely at the student's unique needs and strengths. Ideally, these individuals pool their knowledge, experience, and commitment to design an educational program that will maximize the student's access to, and achievement in, the general curriculum. By law, the IEP must include information on:

- the student's current performance;
- annual goals (and in the case of students in an alternate curriculum, short-term objectives);
- special education and related services needed to meet his or her individual needs; necessary supplementary aids and resources;
- a determination on participation in district and statewide assessments;
- an explanation of the extent, if any, to which the child will not participate with children who do not have disabilities in the regular class and in other activities;
- the frequency, duration, and location of services; and at the appropriate age, transition service needs and transition services;
- the environment in which special education services will be provided; and
- beginning at age 16 or younger, if necessary, participation in transition services and determinations of their progress must be detailed.

In Virginia, planning for transition to post-high school education, training, or employment must begin at 14 according to current state special education regulations. At the time of this report, those regulations were under review, but the draft regulations maintain the age of 14 as the age at which transition planning must occur.

Students who receive services under an IEP are entitled to have those services delivered in the “**least restrictive environment**” (LRE) and must have a “**continuum of placements options**” available to them. This continuum allows for special education and related services to be provided within a general education classroom, a self-contained classroom, a resource room, a private day program, a residential program, a hospital, the home (homebound), or any other approved setting. Within the construct of the continuum of placements, LRE means that students with disabilities: (1) have the right to be educated with their peers who do not have disabilities; and (2) cannot be moved to special classes, placed in separate schools, or otherwise removed from the general education environment unless it is demonstrated that, because of the nature and severity of their disabilities, they cannot be educated in a regular education class through the use of supplemental aids and services.

Inclusive practices in which children are served in the regular education classroom are considered “best practice.” Inclusive practices (formerly entitled “mainstreaming” or “inclusion”) are not a legal principle, however. “Placement in the LRE” is the legal requirement, which may or may not result in a child's receiving services in a regular education classroom. The decision regarding the environment in which special education services will be delivered

must be made based on the unique needs of the student and the most appropriate environment in which that student's IEP goals can be met—consistent with the tenets of LRE. Regardless of the type of setting in which services are delivered, the Individuals with Disabilities Education Improvement Act (IDEA) requires that students with disabilities have access to the general educational curriculum to the maximum extent appropriate. In Virginia, the general curriculum is the **Standards of Learning (SOL)** curriculum.

Once an IEP has been developed and agreed on, the local educational agency (LEA) is responsible for ensuring that it is carried out as written. Parents must be given a copy of the IEP; and each of the student's teachers or other service providers must have access to it. Doing so helps to guarantee that everyone involved in educating the student is fully aware of the specific accommodations, modifications, and supports that must be provided in order to carry out the IEP. The student's progress toward achieving the IEP's annual goals must be measured; and parents must be routinely informed of the child's progress. Generally, the student's plan is reviewed by the IEP team at least once a year, but reviews may occur more often if requested and agreed to by both the parents and the school.

Parents may not agree with an IEP, the location in which services will be delivered, or other issues regarding provision of services, such as a free appropriate public education (FAPE) and/or LRE requirements. In such cases, they are encouraged to discuss their concerns with other members of the IEP team to work out an agreement. If the disagreement persists, parents may participate in more formal dispute resolution practices, including, but not limited to, filing a formal **Complaint**, requesting **Mediation**, or filing a **Due Process Request**. Participation in mediation is always voluntary: both parties in the dispute must agree to participate. Under new federal guidelines, school divisions are now also required to offer a **Dispute Resolution** session to parents. Additional detailed information on dispute resolution mechanisms is available from the Virginia Department of Education (VDOE); and statistics regarding recent dispute resolution activities are included in the monitoring and evaluation section of this chapter.

The VDOE annually collects data from the LEAs on the number of children receiving services on December 1st (known as the December 1 Child Count). This is a point-in-time count, and does not represent the total number of children served during the year. The following chart shows the number of children with disabilities receiving special education and related services statewide by disability category on each December 1st from 2003 through 2006. During this time period, the total number of students categorized as having a disability decreased slightly, from 172,848 to 172,704. Decreases in the number of students occurred for the categories of emotional disturbance and specific learning disabilities. The data, however, also indicate student increases in several other disability categories: autism, developmental delay, other health impairments, and mental retardation (MR or intellectual disability).

Most notable is the significant increase in the number of children with an educational classification of **autism** being served in Virginia public schools. Between 2003 and 2006, the December 1 Child Count indicates a *63 percent increase* in the number of children categorized as having Autism. Research is not yet clear on whether the increase in autism diagnoses can be attributed to improved diagnostics and/or a greater willingness of LEAs to label children as

having autism rather than categorizing them under other disabilities such as mental retardation (intellectual disabilities), which had a corresponding decrease of 2,075 children, or 15.9 percent, during the same time period. The increase in children categorized as having Autism is consistent with the increased populations identified with autism spectrum disorders in other states and increased prevalence rates reported by the Centers for Disease Control.

STUDENTS RECEIVING SPECIAL EDUCATION SERVICES, DECEMBER CHILD COUNT

VDOE Disability Category	12/1/2003	2004	2005	2006
Autism	3,954	4,748	5,674	6,452
Deaf-Blindness	31	36	31	33
Developmental Delay	12,623	14,687	14,945	15,354
Emotional Disturbance	13,059	12,795	12,425	11,621
Other Health Impairments	21,742	24,274	25,600	26,357
Hearing Impairments	1,533	1,419	1,538	1,519
Specific Learning Disabilities	70,185	67,527	65,686	63,282
Mental Retardation	13,063	12,320	11,823	10,988
Orthopedic Impairments	841	916	934	911
Speech/Language Impairments	31,128	31,864	32,239	31,361
Traumatic Brain Injury	346	370	369	381
Vision Impairments	506	473	486	485
Severe Disability	1,059	970	970	964
Multiple Disabilities	2,796	2,886	3,010	2,996
TOTAL	172,848	175,285	175,730	172,704

Source: Virginia Department of Education: December 1 Child Count for 2003, 2004, 2005, 2006.

In recent years, challenges with respect to serving students with Autism have grown. While families cannot prescribe a specific teaching modality, as a member of the IEP team, they are an equal contributor to the decision-making process, are an advocate for their child, and often have access to the most recent research on effective practices. The variety of teaching modalities for students with autism often engenders conflict between the school's staff and families. Early, intensive intervention is considered both appropriate and beneficial by many autism experts. Some school divisions have responded by implementing Applied Behavioral Analysis (ABA) programs in their school divisions, a research-based intervention that employs an intensive one-on-one instruction model. There is a wide variability of services statewide, however, and there are divergent perspectives on whether students with autism should receive ABA as the "gold standard," be integrated with their peers who do not have disabilities to take advantage of role modeling, or receive a combination of services and methodologies.

The **Virginia School for the Deaf and Blind at Staunton (VSDB-Staunton)** and **Virginia School for the Deaf, Blind and Multi-disabled at Hampton (VSDBM-Hampton)** represent only two of numerous available educational placement options for students who are deaf, blind, or deafblind. They nevertheless are worth discussion because of their long history as

well as the controversy associated with maintaining these two schools in either their current or revised structure. Both schools have been residential in nature, with most students living on campus during the week and transported home for weekends. Following years of debate, VSDB-Hampton will transition from residential to a Regional Day Program in June 2008.

Detailing the complex political, economic, and social issues surrounding these schools is beyond the scope of this report and has been addressed by experts statewide, including the families of students who are deaf, blind, or have multiple disabilities. Numerous reports are available from the Virginia Department of Education. Between 1973 and 1999, 29 studies or reports about the two schools were completed that addressed issues related to consolidation, funding, restructuring, relocation, and closure, among others. In 2004, a feasibility study to consolidate the two schools led to the issuance of a Request for Proposals under the Public-Private Educational Facilities and Infrastructure Act (PPEA). The 2005 General Assembly authorized the option to use the PPEA to achieve capital needs for consolidation; and directed the State Board of Education (SBOE) to both select a site for the consolidated school and report on progress toward planning the consolidation. In October 2005, in its *Report of the Planning and Construction Process to Support the Consolidation of the State's Two Schools for the Deaf, Blind and Multi-Disabled*, the SBOE reported to the Governor and General Assembly that a site had not been selected because costs exceeded the General Assembly authorization for construction by 54 percent.

As a result, the 2006 state legislature directed the SBOE to work with the Department of General Services to plan and design the consolidation of the Schools for the Deaf and Blind into a single campus at Staunton. The legislature also directed that the VSDB-Hampton campus be transitioned into regional day program by June 30, 2008. In March 2007, the State Superintendent of Public Instruction appointed a task force comprised of a broad array of constituents to create recommendations that would guide the transition planning for VSDB-Hampton to a day school. At the same time, architects began work with staff members from both schools on the redesign of the Staunton campus. Status reports on both of these efforts were provided in June 2007.

On June 5, 2007, the task force on VSDBM-Hampton transition submitted its report, *Transition Task Force for VSDBM-H Regional Day Program Recommendations*, which included, but were not limited to, the following recommendations:

- “Programs provided to students and families should be affiliated with community services that are multifaceted in resources they provide.
- The Regional Day program for sensory impaired students whose needs cannot be met in a public school program should be located at the current VSDBM-H facility but only if sufficient funds are available to make necessary improvements to the facility infrastructure prior to the actual transition....
- VDOE planners should send a Request for Proposals to all potential entities that might be interested in designing, implementing and administering the new program.

- The Commonwealth should not abandon its role and responsibility to the new school ... and must continue to have a role in design, conduct, monitoring and financial support.”

The results of the transition of VSDBM-Hampton to a regional day program as well as the impact on students attending the two schools currently or in the future will likely be assessed in future years.

D. What Education Services Are Available?

Head Start: Most of the 54 **Head Start** programs operating in Virginia provide services for only part of the day, but many of these include additional day care services to meet the needs of working families. Key services provided to children with disabilities and their families can include: professional medical, dental, mental health and other diagnostic screenings, and referrals to service providers; nutrition programs; and training for parents, staff, and service providers on how better to meet the special needs of participating children. Head Start programs are required to develop plans for the transition of children to public schools; and collaborative agreements exist between Head Start, schools, and other relevant organizations to facilitate that process.

Preschool through Secondary School (K–12) Special Education: Services available to students found eligible for special education under **Part B of the Individuals with Disabilities Improvement Act (IDEA)** start with specially designed instruction in core academic areas. As noted earlier, services are required to be delivered in the least-restrictive environment, but a full continuum of placements must be offered. A partial list of additional services that may be required for a student with a disability, regardless of placement, includes:

Audiology	Psychological services
Counseling	Recreation
Medical services	Rehabilitation counseling
Occupational Therapy	School health services
Orientation & mobility services	Social work services
Parent counseling & training	Speech/language services
Physical Therapy	Transportation

Specialized Preschool services are also offered through the **Virginia School for the Deaf and Blind at Staunton (VSDB-Staunton)** and the **Virginia School for the Deaf, Blind and Multi-disabled at Hampton (VSDBM-Hampton)**, which are under the operational control of the Virginia Department of Education. The stated mission of the preschool program at **VSDB-Staunton** is to provide a developmentally appropriate, language- and literacy-rich learning environment that nurtures children. The program emphasizes language development, both signed and spoken, using research-driven best practices. Family support services are provided and children interact with their peers who are deaf, hard of hearing, and hearing. **VSDBM-Hampton** operates a preschool program for children with cochlear implants that focuses on development of students’ oral language abilities. Interactions with peers who do not have disabilities during instruction facilitate the listening and speaking skills of the preschool students.

Students are provided with intense speech and language therapy as well as audiological and other needed related services.

Services also vary at the K–12 level for students attending **VSDB-Staunton** or **VSDBM-Hampton**. Students at **VDSB-Staunton** who are blind receive daily instruction in language arts, reading, science, math, social studies, health, and physical education. Art, music, and vocational courses are taught as appropriate for the child's age level and placement in school. All students participate in the state assessment program. Students receive transition services to postsecondary education, technical training, or employment.

Students in the **VDSB-Staunton's Department for the Blind** have the opportunity to take courses at local public schools or the Valley Vocational Technical School, and to experience work-related activities through an on-the-job training program. The focus is on enabling students to become independent; and the program emphasizes literacy, the development of a primary reading medium, and the use of technology. The instructional program focuses on continuous academic and compensatory skill development for each student, and provides opportunities in areas such as, but not limited to, keyboarding proficiency, organizational and study skills, Braille, assistive technology use, use of recorded text and voice output, and social interaction and self-advocacy skills. Individual and group instruction is also provided for students in the areas of body image, organization, sensory awareness, and independent travel. VDSB-Staunton also offers an outreach service, the **Summer Enrichment Program**, as well. This program is presented over five days and based on history themes in which students with vision loss from across the state participate in four basic course offerings: Reading/Study Skills, Math/Money Management, Independent Living Skills, and Everyday Technology/Signature.

The **Department for the Deaf** at **VDSB-Staunton** has the stated fundamental responsibility of providing services leading to independence for children with severe to profound hearing impairments. Providing students with the tools to communicate effectively is a key function of the program. The curriculum covers both the general education curriculum and the Standards of Learning (SOLs). Both academic and vocational offerings are provided. Diagnostic, habilitative, and rehabilitative services in the areas of speech, speech reading, language, and auditory training are provided. In addition, a behavioral management specialist conducts individual and group counseling in the areas of emotional, social, and behavioral needs and concerns. A parent-education teacher works to assist parents to communicate better with their children. Students in the school are also given opportunities to take courses in local public schools and to experience work-related activities through jobs acquired in the community.

At present (January 2008), students at **VDSBM-Hampton** can receive a special diploma or a certificate of attendance, but they cannot receive a Standard, Advanced, or Modified diploma. Instruction based on the student's Individualized Education Program (IEP) is provided through small classes, endorsed teachers, and a variety of support staff members. Communication skills (including American Sign Language, English, speech, and speech reading) are stressed for deaf and hard-of-hearing students. Blind and vision-impaired students have access to Braille and large-print materials in addition to audiotape devices and descriptive videos. Extensive

technology is available for instruction and student use. Captioned video materials are provided for deaf and hard-of-hearing students.

The **VDSBM-Hampton Functional Skills Program** focuses on preparing students for supported work placement. The developmentally based curriculum emphasizes daily living skills and includes community-based instruction. The **Vocational Program** provides instruction and training in a variety of areas; and students participate in on-the-job training programs under the supervision of job coaches or individual attendants. The nature of programs at VDSBM-Hampton will change when it transitions to a regional day program in June 2008.

Transition Services: During adolescence, the need to prepare for postsecondary education, training, and/or employment is a critical addition to a student's IEP. Federal and state law and regulation define transition services as those that "promote movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation." While the federal minimum age for transition planning to occur has recently been raised to the year in which a student turns 16, the Virginia Department of Education (VDOE) has continued to encourage that transition planning occur as early as needed and has maintained age 14 as the minimum transition age in its draft state special education regulations.

By law, and to be most effective, transition planning must be based on the individual student's needs, taking into account the student's strengths, preferences, and interests. Transition preparation can include direct instruction, community experiences, development of employment and other post-school adult-living objectives, and other related services. When needed, acquisition of daily living skills and a functional vocational evaluation may be included. Whether it is anticipated that a student will receive a Special, Modified, Standard, or Advanced Studies diploma from a Virginia high school or "age out" of the system when IDEA Part B eligibility ends at age 22, school divisions must provide special education students with a summary of academic achievement and functional performance, including recommendations on the assistance needed to meet postsecondary goals. While some states end eligibility on the student's actual 22nd birthday, students in Virginia are able to continue in secondary school throughout the year in which they turn 22.

VDOE has an excellent Web site on transition resources and has devoted significant resources to promotion of best practices and provision of technical assistance for transition. VDOE offers all school divisions an opportunity to participate in the Virginia Transition Outcomes Projects, sponsors an annual transition conference, and provides 16 transition specialists who provide regional support to public schools.

Primary responsibility for planning and implementing transition services rests with the local education agencies (LEAs), but other agencies and organizations may be called on to assist. Contingent on the student's individual needs and eligibility for services, examples of this assistance include:

- Case management, job-related, or other services from Community Services Boards, behavioral health authorities, or other appropriate providers;
- Services of a Home and Community Based Waiver support coordinator;
- Peer-counseling and other support services from Centers for Independent Living;
- Vocational rehabilitation, including services offered by the Virginia Department of Rehabilitative Services (DRS) and the Department for the Blind and Vision Impaired (DBVI);
- Social Security and work incentives planning programs;
- Exploration of postsecondary employment training opportunities offered by colleges, trade schools, and other providers; and
- Transition services and employment programs, which typically do not have a specific focus on disabilities, available from the Department of Labor.

Many local education agencies (LEAs) choose to participate in the interagency **Post-Secondary Education/Rehabilitation Transition (PERT)** program operated by DRS Woodrow Wilson Rehabilitation Center in Fishersville, Virginia. The PERT program targets school-age youth receiving vocational rehabilitation services from DRS who have limited opportunities to explore vocational options, experience independence, and receive comprehensive vocational evaluations. Transdisciplinary teams in local school divisions arrange initial evaluations for PERT candidates, who may be students receiving services under an IEP or other students with special accommodation needs who have a “504 Plan” under the Rehabilitation Act of 1973, as amended. Following this evaluation, PERT Transition Resource Specialists assist in reviewing transition needs and incorporating necessary services and supports into the student’s IEP. Follow-up PERT services include career exploration, medical and specialty evaluations, and independent-living, vocational, and leisure skills assessments.

Blind and vision-impaired 10th-to-12th graders as well as adults who are considering resuming their education may be eligible to participate in a two-week **Department for Blind and Vision Impaired (DBVI)** assessment program to determine their readiness for college, both in terms of academic skills and adjustment-to-blindness skills. A one-week computer exploration program for youth ages 14 to 21 builds keyboarding skills, Braille technology skills, computer literacy, competency with various software applications, and expertise with voice, image-enlargement, or Braille access for computer use. The **DBVI Transition from School to Work** program utilizes classroom instruction and community experiences to supplement academic, social, and other adjustment skills training received at school and at home. Other DBVI classes cover recreation, home-management, and cooking skills.

E. Cost and Payment for Education Services

Head Start: Funding is supplied directly to local Head Start grantees or to their fiscal delegates by the federal **Administration on Children and Families**. Individual programs operate on a city or county level. Fund grantees include Community Action Agencies, nonprofit

organizations, local governments, school divisions, and other appropriate service organizations. Local matching funds are required. Nationwide, in federal fiscal year (FFY) 2006, federal funding was approximately \$6.8 billion for Head Start services to participants, both with and without disabilities, of which approximately \$98 million went to Virginia programs. This amount was the same as FFY FY 2004 funding levels. Appropriations for FFY FY 2007 for Head Start programs nationally were slightly higher, at close to \$6.9 billion.

Preschool through K–12 Special Education: Local school divisions in Virginia use a combination of moneys from local, state, and federal sources to fund special education services for students with disabilities. The following chart summarizes the source and amounts of funding for state fiscal year FY 2007. Total funding has increased by \$241,541,500, or 15 percent, over the 2005–2006 funding level of \$1,644,878,544.

VIRGINIA SPECIAL EDUCATION FUNDING, 2006–2007*

<u>Funding Source</u>	<u>\$ Amount</u>	<u>Percent of Total Funding</u>
Localities	\$1,184,672,203	63%
State Appropriations to Localities	432,980,961	23%
Federal Payments to the State		14%
IDEA, Part B, Section 619 (Preschool)	9,125,517	
IDEA, Part B, Section 611 (School-Age)	259,641,368	
<u>Total Special Education Funding</u>	<u>\$1,886,420,049</u>	<u>100%</u>

*Source: Virginia Department of Education: Financial and Data Service Division, January, 2008.

Local funding involves interaction between municipal or county school boards and local governing bodies. The school board projects the cost for local education programs, subtracts the anticipated receipts from state, federal, and other sources, and then submits a budget request to the city or town council or county board of supervisors. These local governing bodies then appropriate what they believe to be appropriate funding to support the localities' schools. This amount may be more or less than the amount requested by the school board.

State funding allocations to local school divisions are determined by their enrollment using a measure referred to as their **average daily membership (ADM)**. The state provides a base amount of funding to localities for each child counted in their ADM plus per-child "add-ons" for special education and other activities. The special education add-on is determined by calculating the theoretical number of teachers and aides needed to meet special education standards for the number of enrolled children receiving special education and related services counted in the annual December 1st Child Count census. The state's share of this cost is determined according to a formula, which is the locality's composite index of ability-to-pay.

Under this funding system, each local school division receives an amount of funding from the state for special education that is unique to that locality. The total amount received for special education is dependent on the total student enrollment of the school division, not on the specific number of students participating in special education services. Further, state payments

of the special education add-on are made into the general fund of each local school board where they are co-mingled with all other state appropriations to localities for education.

Under certain conditions, eligible students may be served in public regional special education programs. Tuition rates charged to school divisions by these locally operated programs are set by the Virginia Department of Education (VDOE). Students served in these programs are *not* counted in a locality's ADM, and are therefore not included in determining a locality's per-child basic or add-on funding from the state. At the end of each semester, school divisions may request reimbursement from the state for its share of this tuition. The state's share may not exceed the VDOE-approved rate, and it is based on the same composite index of a locality's ability to pay as for the special education add-on.

State funding for children placed in private special education schools is provided from an interagency pool under the **Comprehensive Services Act**, which is described in more detail in the Community Living Supports chapter of this report. Eligible children have either been placed in out-of-home environments by a local public agency such as the courts, social services, or a school division or are at-risk for such placement. These children are also not counted toward a local school division's ADM; and the state's share of actual costs for services provided by these schools is paid through percentage reimbursement based on a locality's ability to pay. As long as a student is placed in a private facility, the school division receives no state Standards of Quality (SOQ) funding because the SOQs are public school standards.

With respect to children with vision impairments, funding for special education teachers continues to be inadequate. A 2004 report by the Department for the Blind and Vision Impaired (DBVI) to the General Assembly, *Options to Address Salary Reimbursement to Localities for Special Education Teachers of the Visually Impaired*, stated the following:

Virginia's school divisions receive less state general fund support for teachers of the visually impaired than they do for the other categories of special education teachers. This inequity exists because teachers of the visually impaired are funded through the Department for the Blind and Vision Impaired (DBVI) rather than the Department of Education's (DOE) Standards of Quality (SOQ) funding formula.

This DBVI report found that funding per full-time equivalent special education teacher of the visually impaired in FY 2004 was \$4,090, or 53 percent less than the minimum VDOE allotment. The report further noted that the state general fund appropriation supporting salaries of teachers for the vision impaired had remained flat at \$509,328 per year. During this same period of time, the number of teachers of the visually impaired has increased. As a result, the amount of financial assistance per teacher of the visually impaired continues to decrease. According to DBVI, this situation remains unchanged in 2008 and actions have not been taken to resolve the funding disparity.

Federal funding for both preschool and K–12 special education programs are determined by a formula that considers historical federal funding levels, annual total school

enrollment, and state poverty levels. In addition to this base funding, localities may apply annually to the Virginia Department of Education for access to discretionary federal grant funds that promote statewide special education program improvement. These special federal funds (which may not be co-mingled with other funds) are used to reimburse localities for actual expenditures incurred in meeting each grant's goals and are subject to state approval.

Local school divisions may also qualify as an approved provider for services under the joint state and federally funded Medicaid public insurance program and may seek reimbursements from the state's Department of Medical Assistance Services for covered support services provided to eligible students. These services, which must be identified in the student's IEP, include physical therapy, occupational therapy, speech language pathology, skilled nursing services, and psychological services. In addition, for students covered under Medicaid (FAMIS Plus) health assistant services, social work services, audiology services, medical evaluation services, and transportation can be reimbursed. These additional services are not reimbursable for students covered under FAMIS/SCHIP. (For additional description of these programs, see the Health chapter of this report.)

Schools for the Deaf and Blind and Multi-disabled: As with any other publicly operated school, there is no cost to the student/family for attending either of the VSDB-Staunton or VSDBM-Hampton schools. Since the state pays the cost of student attendance, a potential incentive is created for localities to send students with high needs out of district: the local school then does not have to pay the cost of services as it would for private school placement.

In terms of cost, according to the Virginia Auditor of Public Accounts, for state fiscal year (FY) 2007, the final budget for **VSDB-Staunton** was \$8,927,631, which was an increase over the FY 2005 budget of \$8,042,933. Sources for the FY 2007 budget were: \$7,078,912 from state general funds, \$851,143 from Special Funds, and \$753,812 from federal funds. Actual expenditures for that year, \$8,599,533, were lower than the final budget. For **VSDBM-Hampton**, the final adjusted budget for FY 2007 was \$7,210,287, which was an increase over the \$6,704,621 budgeted in FY 2005. Sources for the FY 2007 budget were: \$6,712,846 from state general funds, \$286,351 from Special Funds, and \$211,090 from federal funds. Actual expenditures for VSDBM-Hampton in FY 2007 were \$6,719,350, which was below budget. For both schools, personnel costs in FY 2007 accounted for the majority of expenses, or 77.2 percent.

In FY 2007, VSDB-Staunton served 116 students, of whom 91 (or 78.4 percent) were residential, at an average annual per pupil cost of \$74,134. VSDBM-Hampton served 41 students, including residential students, at an average annual per pupil cost of \$163,901. The Audit report notes that the VSDBM-Hampton per pupil costs were significantly higher than in previous years because of declining enrollment. Enrollment at the two schools combined decreased 6 percent from the previous year.

The **VSDB Foundation** supports and aids the two schools in existing and future enterprises as well as in administering gifts, grants, and bequests. The State Board of Education approves

the Foundation's budget and acts as its governing Board. As of December 31, 2006, the market value of the Foundation's investment portfolio was \$3,072,434 compared to \$2,733,425 on December 31, 2004.

F. Monitoring and Evaluation of Education Services

Head Start: Each local **Head Start** program must develop a **Disabilities Service Plan (DSP)** that outlines strategies for meeting the special needs of children with disabilities and their families. These plans must be approved by the federal **Administration for Children and Families (ACF)** and by the local grantee responsible for the program. The DSP must:

- 1) show that children with disabilities and their families are fully integrated into all components of the Head Start program and that resources are used efficiently;
- 2) designate a disabilities coordinator who is responsible for preparation and implementation of the plan;
- 3) contain procedures for timely screening of participating children and for subsequent referrals to the local education agency (LEA) for further evaluation as indicated; and
- 4) show both commitment and specific efforts to develop appropriate interagency agreements and to work with the LEA to ensure that service opportunities and outcomes are maximized.

The ACF reviews the performance of each Head Start program at least once every three years. The comprehensive **Program Review Instrument for Systems Monitoring (PRISM)** evaluation tool is used in the review. If deficiencies are found, the local grantee is required to develop a **Quality Improvement Plan** to bring the program into full compliance with all Head Start requirements. In addition, Head Start programs are required to develop a system for ongoing monitoring of their DSP.

Head Start has a new emphasis on a **Child Outcomes Framework, which applies to children with and without disabilities**, that focuses on effectively tracking participant progress and outcomes. This explicitly states the goals toward which preschool children should be progressing over the course of their participation. The Outcomes Framework is not the curricula, but is guidance for programs in selecting, developing, planning, and adapting the curricula. It specifies the learning outcomes, but not how to get there; and it does not replace individual short-term goals for children. Program personnel are responsible for ensuring that the curriculum is comprehensive enough to address all of the areas of the Outcomes Framework, yet specific enough to help children achieve desired outcomes.

Head Start programs must demonstrate that children are making progress toward legislatively mandated child outcomes. Data on participation by children and families and the outcomes of specific activities must be provided to the ACF annually. Since Head Start promotes inclusive practices, outcomes for children with disabilities are not reported separately from those of children without disabilities.

Preschool through K–12 State Special Education Monitoring: By statute and regulation, the **Virginia Department of Education (VDOE)** has the principal responsibility for monitoring the implementation of Part B of the Individuals with Disabilities Education Improvement Act (IDEA) in the Commonwealth. **VDOE’s Office of Federal Program Monitoring** oversees special education programs and services in school divisions, private day schools, children’s residential facilities, and state-operated programs (which include the VSDBs, hospitals, and juvenile detention and correctional facilities). The purpose of monitoring is to assess and to ensure compliance with applicable state and federal statute and regulations.

Private special education day schools are licensed to operate by the State Board of Education under the *Regulations Governing the Operation of Private Day Schools for Students with Disabilities* (8 VAC 20-670-10). In addition, VDOE partners with the state Departments of Mental Health, Mental Retardation and Substance Abuse Services, Social Services, and Juvenile Justice to ensure implementation of the *Standards for Interdepartmental Regulation of Children’s Residential Facilities* (“CORE” regulations). CORE regulations are designed to provide protection and to ensure appropriate treatment/programming to vulnerable children receiving out-of-home care. There private residential facilities licensed under the CORE regulations must comply with applicable federal and state requirements regarding the provision of special education services.

IDEA 2004 established new requirements for state monitoring, enforcement, and annual monitoring activities. In complying with these requirements, VDOE monitoring focuses on the primary goals of: (1) improved educational results and functional outcomes for children with disabilities; and (2) ensuring that school divisions meet the program requirements under IDEA Part B, with a particular emphasis on requirements most related to improving educational results for children with disabilities.

Virginia’s **Special Education State Performance Plan (SPP)** evaluates the Commonwealth’s efforts to implement Part B requirements and describes how it will improve such implementation. The SPP must be approved by the U.S. Department of Education’s Office of Special Education Programs. The SPP was developed to measure performance in the following areas:

- Provision of a free appropriate public education (FAPE) in the least-restrictive environment;
- General supervision of special education, including Child Find, effective monitoring, the use of resolution meetings, mediation, and a system of transition services; and
- Disproportionate representation of racial and ethnic groups in special education and related services to the extent the representation is the result of inappropriate identification.

Beginning in February 2006, Virginia began using a new format for its **Annual Performance Report**, which reports on the performance of school divisions related to SPP targets. Results are posted on the VDOE website. In August 2007, a Superintendent’s

Memorandum was sent out to all local school divisions notifying local superintendents of the transition to a “targeted assistance model” for monitoring activities. The memorandum described the new process as follows:

This model will include on-site focused monitoring that will involve facilitated discussion on the school division’s performance against the state SPP indicators; a review of records; interviews and observations for the purposes of determining compliance with regulations; verification of reliable and accurate data reporting; and facilitation on the development of action plans. School divisions will be required to develop an action plan when state targets are not met. When noncompliance is determined, the correction must be made within one year of identification. The Department will provide ongoing technical assistance to school divisions to meet targets and to correct noncompliance. In addition to selection based on performance, the Department may randomly select one or two school divisions from each of the eight superintendents’ regions for an on-site focused monitoring visitation.

In summary, the state’s monitoring system engaged in an important shift from a system that monitors compliance with procedural requirements to one that is focused on educational benefit and student results.

According to the VDOE staff, school divisions are now identified for on-site monitoring based on a weighted formula that determines those school divisions in greatest need of assistance. In addition, at least one school division is randomly selected from each of the eight superintendent’s regions for review. VDOE special education monitoring and instructional specialists work with school divisions to determine the reasons that a division is not able to meet a state target and help to identify improvement or corrective action strategies. Priority-targeted assistance is provided to school divisions in greatest need. Resources and targeted assistance are made available to all school divisions, however.

Dispute Resolution: The Office of Dispute Resolution and Administrative Services within the VDOE is charged with the responsibility of:

- Managing and monitoring the state’s special education **Due Process Hearing** system, an impartial procedure used to resolve disagreements over issues related to special education services that arise between a parent and a school division. Due Process requests generally relate to substantive issues regarding the identification, evaluation, or education of a child, or the provision of a free appropriate public education (FAPE) for the child.
- Investigating and resolving all valid special education **Complaints** on behalf of eligible students with disabilities when the complaint alleges a violation of applicable state and federal laws and regulations. Complaints typically involve procedural violations.

- Managing the special education **Mediation** system, a voluntary procedure in which a neutral, impartial, trained mediator can be sought by parents or school division staff to assist in negotiations and help reestablish productive working relationships.

The Office of Dispute Resolution and Administrative Services produces the *Annual Report of the Dispute Resolution Systems and Administrative Services (ARDRSAS)*, which identifies and addresses systemic compliance issues affecting local school divisions. Issues that have gone through the due process, mediation, and complaint systems (including dispute outcomes) are used to assess local compliance with special education requirements.

Due Process: The August 1, 2007, ARDRSAS report identified 69 requests for due process hearings during the 2006–2007 school year. Thirty-three school divisions were involved in hearing requests during that school year, which was a decrease from the 44 divisions involved in the previous year. Of the 69 requests, as of June 30, 2007, 48 were withdrawn or dismissed; 13 were still pending; and 8 were resolved following a hearing (of which each was initiated by parents). Decisions were rendered in favor of the parent in one hearing and in favor of the LEAs in six hearings; a split decision was rendered in one hearing.

These data on due process hearings are consistent proportionately with hearing outcomes in previous years. During the 2005–2006 school year, 15 hearings were held, of which 13 resulted in a decision in favor of the LEA and 2 resulted in a split decision. The 8 hearings held during 2006–2007 involved 12 issues. Individualized Education Programs (IEP) issues were the focus of a majority of cases (7), of which 6 were regarding placement and 1, services. Due process was an issue in 3 hearings and discipline in 2 hearings. A total of 27 issues were addressed among the 15 hearings during the 2005–2006 school year. Issues that were not brought forth in 2006–2007 included IEP development, notice, extended school year, and independent educational evaluation.

As the table below demonstrates, there has been a significant decrease in due process hearing requests over the four school years (58, or 45.7 percent).

DUE PROCESS HEARING REQUESTS BY YEAR

<u>2003–2004</u>	<u>2004–2005</u>	<u>2005–2006</u>	<u>2006–2007</u>
127	107	98	69

Source: Virginia Department of Education. *Annual Reports of the Dispute Resolution Systems and Administrative Services* (2007, 2006, 2005, 2004, and 2003)

In the June 2007 ARDRSAS Report, VDOE stated that it has not identified any specific factors contributing to the continued decreased number of hearing requests proceeding to a full hearing, but noted that it is possible that the decrease is due to the new Resolution Session requirement. IDEA 2004 imposed a new requirement that, after receipt of a request for a Due Process Hearing, the school division must schedule a **Dispute Resolution Session** with the

parent to provide both parties the opportunity to resolve the issue. Both parties can waive resolution, opt for mediation, or choose to move forward with due process.

During the 2006–2007 school year, 39 Resolution Sessions were held from the 69 hearing requests initiated. Resolutions were reached in 17 (44 percent) of these cases. By comparison, during the 2005–2006 year, 59 Resolution Sessions were held for the 98 hearing requests initiated; and resolution was reached in 16 cases (27 percent). The Resolution Session was waived in 12 cases during 2006–2007 and in 6 cases during 2005–2006. Without knowing the complexity of the cases, it is not feasible to draw any conclusions with respect to the efficacy of the process.

As a part of its **Continuous Improvement Monitoring Process**, VDOE continued to reinforce the 45-day timeline for Hearing Officers to render their decision, which had been a federal compliance issue. These efforts have been successful. During the 2002–2003 school year, nearly half of the Hearing Requests involved an extension, but during the 2005–2006 year, only 6 out of 98 requests, or 6.1 percent, involved extensions. During the 2006–2007 year, all cases were completed without exceeding the 45-day timeline. VDOE has also continued to prioritize follow-up to ensure implementation of LEA corrective plans following Hearing Officer decisions. For school year 2006–2007, in response to the 69 hearing requests identified above, VDOE has received and approved 52 corrective action plans with 17 pending receipt and review.

Complaints Filed: As the chart below indicates, during the past four school years, there has been a substantial reduction in the number of administrative complaints filed. During the 2006–2007 school year, 115 administrative complaints were filed, but, by comparison, during 2003–2004, 173 were filed. This represents a decrease of 58 complaints, or 33.5 percent between the school years.

<u>2003–2004</u>	<u>2004–2005</u>	<u>2005–2006</u>	<u>2006–2007</u>
173	167	132	115

Source: Virginia Department of Education. *Annual Reports of the Dispute Resolution Systems and Administrative Services* (2004, 2005, 2006, and 2007)

Of the complaints filed during the 2006–2007 school year, 12 were withdrawn; 13 were resolved through mediation or a settlement agreement; and 2 were dismissed. For the remaining complaints, as of June 30, 2007, 67 administrative decisions were issued addressing 217 issues. Of those issues, 164 were found to be in compliance with statute and regulation while 53 were found noncompliant. Twenty-four of the 67 decisions were appealed: findings were affirmed in 15 cases, remanded in 3 cases, and split in 1 case. Appeal decisions were pending in 3 cases of 6/30/07. The highest area of noncompliance findings were for IEP implementation issues.

VDOE notes that, as with mediation, there are no clearly identifiable factors accounting for the decrease in complaints. VDOE reports that the decrease cannot be attributed to increased use of mediation, even with a slight increase in mediation requests; and cannot be attributed to

revised regulatory requirements that changed the time frame (from a three-year filing to within one year prior to receipt of the complaints) for filing complaints about continuing violations or requests for compensatory services. The rate of appeals also has decreased, dropping from 42 percent in the 2005–2006 school year to 32 percent in 2006–2007.

In the 2007 ARDRSAS report, VDOE notes that it continues to target follow-up with school divisions to ensure timely correction of noncompliance as required by complaint decisions as part of its **Continuous Improvement Monitoring Process** and **Annual Program Performance Report**. VDOE hired three new complaint specialists during the 2005–2006 year. Each specialist is assigned to two regions and serves on VDOE’s technical assistance team for his or her assigned regions.

The Office of Dispute Resolution and Administrative Services is in the process of a finalizing a *Parents’ Guide to Special Education Dispute Resolution*. At the time of this report, the document was in the final editing process and was expected to be in print by February 2007. The guide is designed to help parents navigate the intricacies of the hearing process, especially when they are representing their child’s interests without the assistance of legal counsel.

Mediation Requests: VDOE received 129 requests for mediation during the 2006–2007 school year. As the chart below indicates, over the past four years, the number of mediation requests increased by 31, or 31.6 percent. Mediation requests rose slightly between the 2005–2006 and 2006–2007 school years, but the annual total number has been relatively stable since the 2004–2005 school year.

2003–2004	2004–2005	2005–2006	2006–2007
98	133	125	129

Source: Virginia Department of Education. *Annual Reports of the Dispute Resolution Systems and Administrative Services* (2004, 2005, 2006, and 2007).

The increase in requests for mediation is positive, since this is a less adversarial way in which to resolve disagreements and has been highly promoted and encouraged by VDOE. At the time the ARDRSAS report was published in August 2007, 81 of the mediation requests had been resolved, 2 were partially resolved, 18 were unresolved, 17 were withdrawn, and 11 were pending. Twenty-one of the mediation requests emanated from a due process hearing request. Of these, 6 cases were resolved through the mediation process, 1 was partially resolved, 6 remained unresolved, 7 were withdrawn, and 1 was pending.

The mediation requests reported for the period July 1, 2006–June 30, 2007, addressed a total of 202 issues. These issues primarily involved the type and sufficiency of IEP services, placement, goals, staffing, evaluation and disability, discipline, transportation, and financial responsibility for parental selected program. Issues for the 2006–2007 school year were very consistent with those of the previous two years.

The number of mediation requests that involved due process has significantly decreased over the last several years: In the 2003–2004 school year, 41 of 135 mediation requests (30.4 percent) involved due process while 21 of 129 (16.3 percent) for the 2006–2007 school year did. As a preferred alternative to litigation, use of mediation is worth monitoring. VDOE continues to promote mediation as a viable option since the probability of an agreement remains in the 82 percent range, far higher than the stated 30 percent agreement rate in unassisted resolution sessions.

State Special Education Advisory Committee (SSEAC): As an advisor to the State Board of Education under Virginia regulation 8 VAC 20-80-30, this committee provides additional oversight of Virginia’s special education system. SSEAC membership is comprised of stakeholders defined by the 2004 Individuals with Disabilities Education Improvement Act (IDEA) and Virginia regulation (8 VAC 20-80-30). The SSEAC includes parents, individuals with disabilities, representatives of public and private schools and postsecondary education, and advocates, among others. IDEA requires the SSEAC to:

- Define plans for identifying children with disabilities,
- Determine the unmet needs of children with disabilities in Virginia,
- Develop priorities and strategies for meeting identified needs of children with disabilities,
- Review and make comment on the State Improvement Plan for special education,
- Review procedures for the distribution of funds under IDEA Part B and any rules or regulations proposed by Virginia regarding the education of children with disabilities, and
- Advise the state in developing corrective action plans to address findings identified in federal monitoring reports.

During state fiscal year 2006 (July 1, 2005–June 30, 2006), the SSEAC changed its subcommittee structure to enhance its effectiveness and to align better with the federal requirements of the State Performance Plan, IDEA regulatory change processes, and No Child Left Behind Monitoring. Subcommittees were formed in the following areas: data and reports, constituency involvement, autism, restraint and seclusion, and personnel.

In its Annual Report to the State Board of Education for 2005–2006, the SSEAC Committee identified the following recommendations made during that year:

- That the Board of Education requires local school divisions to develop local policies and procedures on restraint and seclusion. (The SSEAC assisted in the development of a state-level policy guide published by the Virginia Department of Education (VDOE) and disseminated to local school divisions.)
- That VDOE communicate to the State Council of Higher Education the need to maintain, develop, and implement undergraduate special education licensure programs as part of Bachelor’s degree programs in Virginia.

- That VDOE develop and implement statewide training and technical assistance to prepare, retain, and enhance leadership skills for public school administrators, supervisors, and special education administrators.

According to the most recent (September 2007) **State School Report Card**, the total percentage of **provisionally licensed** teachers statewide (all teachers, not just those who teach students with disabilities) has remained stable over the last 3 years. During the 2004–2005 school year, 8 percent of teachers were provisionally licensed; and, during the 2005–2006 and 2006–2007 years, the rate was 7 percent. Similarly, the proportion of teachers having a **conditional special education license** also has been stable at 2 percent for the last three years. The State Report Card also notes that during the 2006–2007 school year 3 percent of core academic classes were taught by teachers not meeting the federal definition of “highly qualified.” In high poverty areas, however, the percentage was much higher, at 5 percent, and in low poverty areas, 2 percent. In addition, although the number of qualified interpreters remains too low to meet established need, Virginia has only two interpreter training programs among state community colleges.

The SSEAC’s Annual Report to the Board of Education for 2006–2007 also addressed issues related to staff recruitment and retention; services to students with autism; revision of the state special education regulations; secondary transition; and standards of learning assessments, among other issues. The majority of recommendations made in this report related to the area of staff licensure. The SSEAC recommended that:

- The license of teachers of students with disabilities having access to the general curriculum be divided into elementary (K–6) and middle/secondary; and coursework be included in each license to meet the grade-level content skill and knowledge requirements of “high qualified” under No Child Left Behind.
- A requirement of competence in “orientation and mobility” should be added to the vision impairment teacher endorsement.
- All general education teacher licensure programs should require competency in characteristics, legal issues, and instructional strategies for children with disabilities.
- The Gifted and Talented licensure language should include competence in teaching children with disabilities who are also gifted and talented.

The SSEAC also endorsed and recommended endorsement by the Board of Education of the following licensure concepts:

- An add-on endorsement for teachers already licensed as elementary teachers or content teachers provided that the add-on endorsement is either at the elementary or middle/secondary level;
- A proposal for the Master’s level speech-language pathologist to be moved from a teaching license to a pupil personnel license;

- A proposal that for provisional licensure, all state-required tests must be passed during the first year of the licensure period.

Other recommendations put forth by the SSEAC that year addressed issues relating to public reporting and the sharing of school division data.

Internal Monitoring by Local Education Agencies (LEAs) and State-Operated Programs:

In addition to the state monitoring systems described above, all local education agencies (LEAs) and state-operated programs, such as the Virginia Schools for the Deaf and Blind (VSDBs), are required to establish their eligibility for funding under the Individuals with Disabilities Education Improvement Act (IDEA). To receive this funding, these entities' providers must have in effect and must demonstrate adherence to policies and procedures that are both consistent with federal and state regulations as well as consistent with plans as approved by the Virginia Department of Education (VDOE). Changes to policies and procedures must be submitted to VDOE for approval after they are adopted by local school boards or by the state-operated program administrators. The LEAs submit compliance data to VDOE on a regular basis.

Operating licenses for the **School for the Deaf and Blind at Staunton (VSDB-Staunton)** and the **School for the Deaf, Blind and Multi-Disabled at Hampton (VSDBM-Hampton)** are provided by the VDOE. Students are taught by staff members who are licensed by VDOE or another licensing agency appropriate to the service delivery area. Overall responsibility for ensuring that students are appropriately served rests with the placing school division. As noted earlier, these schools must comply with IDEA as well as the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*. In addition, as a residential facility, the schools must also comply with the *Standards for Interdepartmental Regulation of Children's Residential Facilities*. An **Advisory Commission** monitors the operations of the two schools, and advises the Board of Education regarding the maintenance of a high-quality and cost-effective program of study. Both schools participate in the statewide assessment program. VSDB-Staunton primarily administers Standards of Learning Tests (SOL); VSDBM-Hampton students participate in the alternate assessment program. Both the quality of services offered at these state-operated schools and physical plant concerns have been key issues in the previously referenced studies conducted about these schools and in the current activity on consolidation. As noted earlier, the 2005 *Report on the Planning and Construction Process to Support the Consolidation of the State's Two Schools for the Deaf, Blind and Multi-Disabled* concluded that building a new school far exceeded the cost envisioned; and plans are now underway for renovation of the Staunton campus.

Local Advisory Committees (LACs): Although not federally mandated by the IDEA, the *Regulations Governing Special Education in Virginia* (8 VAC 20-80-90) require that LEAs establish Local Advisory Committees, referred to as either LACs or local Special Education Advisory Committees (SEACs). These committees advise local school boards in much the same way that the State Special Education Advisory Committee (SSEAC) advises the State Board of Education. State-operated programs (SOPs) do not establish Local SEACs, but all SOPs (in collaboration with an assigned subcommittee of the SSEAC) conduct annual reviews of local

policies and procedures. The LACs vary greatly in their operational processes and their effectiveness. To improve LAC effectiveness and encourage greater participation in these local entities, the Virginia Board for People with Disabilities, in collaboration with the Virginia Department of Education and the Partnership for People with Disabilities at Virginia Commonwealth University made a significant investment in statewide training of LAC members and potential members.

Education Services Provided by the Department for the Blind and Vision Impaired

(DBVI): According to the Department, accountability for education services programs offered by DBVI is the responsibility of the **Education Services Program Director**, who is assisted by the six regional managers. Each regional manager provides direct supervision for the education coordinators. The Program Director and regional managers observe and evaluate staff performance, review records, and receive input from customers and consumer groups. Corrective actions resulting from a review may include individual training, casework correction, or other personnel actions. Meetings of education coordinators, the Program Director, and the Library and Resource Center Director are held quarterly to address ways to expand services and to improve services that are found to be ineffective, and, if indicated, revision of the Education Services policy manual is made.

Federal Monitoring of Virginia Special Education Programs and Services: The U.S. Department of Education's **Office of Special Education Programs (OSEP)** is responsible for monitoring state implementation of the Individuals with Disabilities Education Act (IDEA). The Virginia Department of Education (VDOE) reports regularly to the OSEP, and is subject to periodic on-site compliance reviews.

As noted and discussed in detail in the 2006 edition of this report, the most recent federal on-site review took place during the 1997–1998 school year. In response to this review, VDOE identified in its **State Improvement Plan** and began implementation of corrective actions regarding Part B noncompliance. In July 2004, OSEP notified VDOE that it had successfully completed all corrective activities regarding noncompliance identified in its **State Improvement Plan** and based on a self-assessment of its monitoring performance. In March 2005, OSEP conducted a routine verification visit to Virginia; and in a May 2005 letter to the Superintendent of Public Instruction reported several concerns: inadequate data collection by VDOE for monitoring, and as indicated, ensuring correction of school district compliance with IDEA; hearing requests were not being resolved in a timely manner; and the exclusion of youth with disabilities receiving special education and related services in juvenile detention facilities from its Part B child counts. (Details regarding the issues can be found in the *2006 Biennial Assessment of the Disability Services System*.)

In March 2006, VDOE provided additional information to OSEP in response to a request for updates on corrective action. In its response to OSEP, VDOE focused on several items from its *2005–2006 State Performance Plan/Annual Program Report*. Among the issues clarified through the VDOE response were:

- In response to significant discrepancies in the rates of suspensions greater than 10 days for students with disabilities versus students without disabilities, VDOE will work with school divisions to provide information on functional behavioral assessments and development of behavior intervention plans.
- Technical assistance being provided to school divisions and a review of policies practices and procedures in order to address disproportionality (i.e., the higher prevalence of African American students identified as needing special education and related services).
- Improvement of on-site monitoring processes for school divisions that failed to correct areas of noncompliance within one year.

The area of **transition from secondary to postsecondary activities** is one that continues to be of concern to parents, and is an area that is closely monitored in all states. In 2004, OSEP introduced new performance indicators related to transition. These are:

- 1) Indicator: data on the percent of youth age 16 and above with an IEP that includes coordinated, measurable annual goals and transition services that reasonably enable the student to meet postsecondary goals. A weighted, stratified, randomized sampling procedure was used to enable generalization of low-incidence disability categories and of smaller special education population centers to be generalized to the large statewide population. In Virginia, baseline data were 76.83 percent (713 of 928 files that were reviewed); and the target for the 2005–2006 school year and beyond is 100 percent.
- 2) Indicator: the percentage of youth with IEPs no longer in secondary school who have been competitively employed, enrolled in post secondary school, or both, within one year of leaving high school. VDOE worked with a stakeholder group to develop and implement a data collection system. A survey was developed that will be administered to all “school-leavers” in order to compile baseline data. Training on administration was provided during the 2006–2007 school year. Baseline data and targets are not yet available.

Disproportionate representation of minority students in special education is another area in which the **Office of Special Education Programs (OSEP)** has developed a new indicator. This indicator requires assessment of whether disproportionality is a result of inappropriate identification. To address disproportionate representation, VDOE reviewed policies, practices, and procedures (which included school division action plans to address disproportionality) for all school divisions where significant disproportionality was identified; and determined whether each school division’s processes and actions to address this issue were

appropriate. In addition, technical assistance was made available to those divisions that were identified as having disproportionality issues. Baseline data for 2005–2006 indicated that: a) nine school divisions (6 percent) had significant disproportionality that was a result of inappropriate identification; and b) with respect to disproportionate representation of racial and ethnic groups in specific disability categories, an additional 12 school divisions (9 percent) indicated some level of inappropriate identification relative to at least one of six designated disability categories.

In VDOE's 2006–2007 Annual Performance Report (APR), VDOE reported that these findings were corrected within 1 year of identification. In a June 15, 2006, Determination Letter to VDOE, ISEP raised some questions with regard to Virginia's having limited its data review to overrepresentation of African American students rather than all racial and ethnic groups and noted that it did not address underrepresentation. VDOE's response to OSEP was summarized in the *Part B annual Performance Report for 2006–2007*. In its response, VDOE noted that it had analyzed data for all races, but that the only race that required school division action was African American (i.e., this was the only group in which there was overrepresentation as a result of inappropriate identification). VDOE also noted that OSEP had not provided any direction to states as to how to determine under representation but that it would comply with any direction OSEP disseminates on this issue.

For the 2006–2007 school year, Virginia met the Indicator 9 and 10 targets of 0 percent of school divisions with disproportionate representation that is a result of inappropriate identification. VDOE received direction from OSEP that this determination was to be made based on whether a school division had violations of procedural or regulatory requirements related to the identification of students with disabilities. This determination methodology is not as stringent as the methodology VDOE had employed to determine overrepresentation in the past.

The provision of services in the **least restrictive environment (LRE)** is another critical indicator monitored by the federal OSEP. The OSEP compliance indicator has changed. In the past, this denoted to the percentages of children with IEPs, ages 6 through 21, who are: (a) removed from the regular education classroom less than 21 percent of the day, (b) removed more than 60 percent of the day, or (c) are served in public or private separate schools, residential, homebound, or hospital placements. The indicator has been reframed by OSEP to denote the percentage of children with IEPs ages 6 through 21 served: (a) inside the regular class 80 percent or more of the day; (b) inside the regular class less than 40 percent of the day; and (c) in separate schools, residential facilities, or homebound/hospital placements.

Until 2004, VDOE was only able to report the percentage of students with disabilities receiving services in a regular school building (96 percent during the 2003–2004 school year). Data did not reflect the percentage of time students received special education outside of the regular classroom until the *2004–2005 Annual Program Performance Report*. Data collected on December 1, 2004, for the 2004–2005 Child Count and on December 1, 2005, for the 2005–2006 Child Count are basically identical.

- In both the 2004–2005 and 2005–2006 school years, 56 percent of children with disabilities received less than 21 percent of their special education services outside the regular classroom. This did not meet the state target of 58 percent.
- In both 2004–2005 and 2005–2006, 26 percent of children with disabilities received between 21 percent and 60 percent of their special education outside the regular classroom. OSEP did not require a target for this category.
- In 2004–2005, 15 percent of children with disabilities received between 61 percent and 100 percent of their special education outside of the regular classroom. During the 2005–2006 year, the proportion decreased to 14 percent, which met the state target
- In 2004–2005, 3 percent of students received their educational services in a public, separate facility, or other environment in the continuum of placements. During the 2005–2006 school year, 4 percent received services in a public, separate facility. Thus the state target of 3 percent was met in 2004–2005, but not in 2005–2006.

Data from the *2006–2007 Part B Annual Program Performance Report* on the new indicators note the following:

- In 2006–2007, 54 percent of students spent at least 80 percent of the day in the regular class. This did not meet the target of 60 percent.
- 18 percent of students spent less than 40 percent of their day in the regular classroom. This did not meet the target of 12 percent.
- 3.6 percent of students received their special education services in separate schools, residential facilities, or home bound/hospital placements. This did not meet the target of 2 percent.
- The remaining 24.5 percent of students spent between 40 and 80 percent of their time in the regular class. This category is not required by OSEP to be reported and there is therefore no state target.

G. Areas of Concern for Educational Services

The chapter detail provides information on the breadth and depth of services available to students with disabilities who require special education and related services. Cited throughout the chapter are important statistical data regarding program activities and performance indicators. The chapter detail also provides information on areas in which the system and services have improved and describes improvement activities and outcomes. Section G focuses on the specific areas in which further improvements may be needed to move the system forward and ensure that the needs of students with disabilities throughout the Commonwealth are met. The Virginia Board for People with Disabilities (VBPD) identified the issues and concerns below through a variety of mechanisms, including: (1) review and analysis of the numerous source documents

referenced within and listed at the end of this chapter, (2) public comment received via VBPD's Board's six public forums held throughout the state in the spring of 2007, and (3) written comment and information provided and verified by state agencies in their reviews. The issues below are not all-inclusive, but represent those that the Board has identified as important to systems improvement.

- 1. Obtaining an Education in the Least Restrictive Environment (LRE):** Students with disabilities are entitled to receive services in the least-restrictive environment (LRE) (i.e., be educated alongside their peers without disabilities unless their Individualized Education Program (IEP) requires otherwise. Despite this legal precept, LRE continues to be an issue raised in requests for due process and mediation and in complaints. The State Special Education Advisory Committee (SSEAC) has also continued to bring forth LRE issues as a concern. The SSEAC reports receiving ongoing public comment regarding the lack of access by students with disabilities to the general education classroom and the failure of some local education agencies (LEAs) to provide appropriate supports in the general education classroom for students with disabilities. Comments received during the 2007 Virginia Board for People with Disabilities (VBPD) public forums also reflected concerns regarding increasing use of segregated services, a perceived "mindset" of low expectations and of limitations rather than capabilities of students with disabilities, the adversarial nature of some school divisions and of the Individualized Education Program (IEP) process in general and a lack of knowledge among school staff members regarding available supports for classroom and extracurricular activities. In addition, comments were made on the lack of access to inclusive transportation. Parents expressed frustration that attitudes of local school personnel and the lack of person-centered practices presented a major barrier to inclusion. They described school staff members as viewing their children in terms of deficits and limitations rather than as possibilities. In the words of one parent, "they just don't see my son as capable." The Virginia Department of Education (VDOE) has set a number of goals designed to increase the number of students receiving instruction in the regular classroom to 68 percent by 2010.
- 2. Inadequate Access to the General Curriculum:** Despite initiatives at the statewide level, meaningful access to the general curriculum by students with disabilities, especially severe disabilities, remains an ongoing, unresolved issue. A frequent perception by parents as expressed through public comment to the Board at its 2005 and 2007 public forums is that some school administrators are focused on cost containment for students with disabilities rather than on promoting academic achievement; and that pressures related to the federal No Child Left Behind testing has contributed to attempts to dissuade parents from including their children in Virginia's Standards of Learning (SOL) curriculum. Public comment provided to the SSEAC either at meetings or through constituency reports in 2006 noted the need for (1) increased access to the general curriculum, (2) improved achievement, (3) support for effective inclusion; and (4) VDOE leadership to address these issues. Issues cited included student access to Standards of Learning (SOL) and to coursework needed to pursue an Advanced Studies or Standard rather than a Modified or Special diploma. Public comment provided to VBPD and to the SSEAC noted significant challenges for students with

disabilities and their families in receiving adequate information on diploma options and course/verified credits needed to pursue various options. There is significant concern among families that they do not receive information early enough to make informed decisions on diploma options and coursework that can affect their child's future.

3. **Proposed Revocation of Student and Family Protections in State Regulations Governing Special Education:** Virginia's *Regulations Governing Special Education for Students with Disabilities* (8 VAC 20-81 et. seq.) are being revised in response to the release of new federal regulations for implementation of the Individuals with Disabilities Education Act (IDEA) 2004. Virginia's current special education regulations contain important protections for students with disabilities and their families that go beyond federal regulations in several areas, resulting in practices beneficial to these students and families. Students with disabilities, parents, and advocates have strongly advocated for the Commonwealth to maintain these critical protections. Draft regulations released in September 2007, however, eliminated some longstanding parental/student protections. These included eliminating parental consent for partial or complete termination of services, changing the use of the developmental delay label from usage up through age 8 to usage through age 5, allowing a functional behavioral assessment to be based on existing data, and removing the requirement for short-term objectives for students participating in the SOL curriculum. The Board has joined with the Virginia Coalition for Students with Disabilities to express its disappointment with respect to the unanticipated revocations of family involvement rights and student protections.
4. **Challenges in Meeting the Needs of Students with Autism:** As referenced in the Early Intervention Areas of Concern, the increasing numbers of children diagnosed as having Autism Spectrum Disorder (ASD) is also straining school systems around the nation. Data provided by VDOE and cited earlier in this chapter verify this significant growth in the school age population with ASD. Many school divisions are unprepared to give adequate service to increasing numbers of students who have autism and particularly those with behavioral challenges. In its 2006 *Annual Report*, the State Special Education Advisory Committee (SSEAC) reported receiving public comment regarding inadequate delivery of services to this growing population.

While the requirement is for each student's supports to be individualized, this may not occur. For example, parents report that if a school division has an "autism program," it is more likely that placement in it will occur making it more difficult to obtain placement in regular education with supports. Similarly, parents who would like a specialized program for their child with autism may find that such programs are not available because of a lack of school division expertise and/or the reported expense of such programs.

5. **Gaps in Secondary Transition Services:** It is very positive that under the draft *Regulations Governing Special Education Services*, the Board of Education has proposed maintaining the age for transition planning at 14, rather than 16 as stipulated under federal IDEA. Transition services, however, continue to be a significant concern—this despite concerted and ongoing

efforts and resources being put into this arena by the Virginia Department of Education (VDOE) and through various grants and systems change initiatives. In 2006, the State Special Education Advisory Committee (SSEAC) noted receiving public comment on the need for better transition services and the lack of transition skills among students with disabilities exiting secondary school. Concerns were raised regarding placement of students with disabilities into non-Standard diploma options; low expectations, and students being geared toward low-level traditional jobs or sheltered workshops. Parents and advocates feel that school staff members often have low expectations regarding their children. Parents report high staff turnover in high school vocational programs and a lack of information about transition services and supports. VDOE is now collecting postsecondary outcome data on youths who had IEPs and are no longer in secondary school. Baseline data were gathered for 2006–2007 and trends that develop will be monitored.

Families also report concern regarding transition services available from the Department of Rehabilitative Services (DRS) because of the current Order of Selection under which DRS is operating. Order of Selection limits services to those persons categorized under the federal Rehabilitation Act as having the “most significant” disability(ies). Students who do not meet these criteria cannot receive vocational rehabilitation services that they may need in order to be successful in postsecondary employment or higher education.

6. **Disparity in Student Achievement:** Achievement differences between students with and without disabilities continue to be an issue as evidenced through VDOE statistics and as cited in public comment to VBPD and to the SSEAC. In terms of academic performance, the following table provides comparative passing rates for the last three school years on state assessments as part of the annual School Report Card.

ACADEMIC ACHIEVEMENT IN STATE ASSESSMENT TESTS, 2004–2007

	<u>English</u>			<u>Math</u>			<u>Science</u>		
	<u>2004–05</u>	<u>2005–06</u>	<u>2006–07</u>	<u>2004–05</u>	<u>2005–06</u>	<u>2006–07</u>	<u>2004–05</u>	<u>2005–06</u>	<u>2006–07</u>
All Students	81%	84%	85%	84%	76%	80%	84%	85%	88%
Students									
with	56%	64%	62%	61%	53%	58%	64%	65%	67%
Disabilities									

As the data show, performance on state assessments for all students (which includes students with disabilities) was significantly higher than the scores for the subset of students with disabilities; and was the lowest of all the student subsets including those identified as “disadvantaged and students who have limited English proficiency.” Scores did rise slightly for students with disabilities in FY 2006–2007 compared with the previous years, but remained at least 20 percent below all students. Rigorous targets for improvement and

corresponding strategies have been set forth at the state level, including statewide training and technical assistance, online tools and tutorials, and provision of instructional resources and pilot demonstration programs using best practices from other states.

7. **Disparity in Student Graduation Rates:** A significant difference remains between graduation rates among students with and without disabilities and it also bears noting that graduation for all students, with and without disabilities, has decreased over the last 3 school years. Families report through public comment that they are not informed adequately about what being in a separate (non-SOL) curriculum track means and are then shocked that their child can't get a Standard diploma. The graduation rate (calculated as those receiving an Advanced Studies or Standard diploma) for students with disabilities has remained far below that of all students:

Graduation Rates	All Students	Students with Disabilities
2003–2004	90.5%	52.6%
2004–2005	90.3%	51.5%
2005–2006	85.2%	48.6%
2006–2007	Not yet available	43%

Beginning with the 2006–2007 school year, Virginia was required to use the No Child Left Behind (NCLB) graduation rate calculation, which uses a different methodology than in the past. Had that methodology been used in the 2005–2006 school year, the graduation rate for all students would have been 79 percent and for students with disabilities 42 percent.

The disparity in dropout rates between students with and without disabilities is much less. The 2005–2006 state target of a 1.93 percent dropout rate for students with disabilities was not met, nor was the 2006–2007 state target of 1.91 percent. It is positive, however that these data are now being compiled and can be tracked.

Dropout Rates—Grades 7–12	All Students	Students with Disabilities
2004–2005	1.86%	1.96%
2005–2006	1.89%	2.2%
2006–2007	1.86%	2.3%

8. **Need for Increased Numbers of Appropriately Trained Qualified Staff:** Ensuring student achievement, instruction in the least-restrictive environment, and access to the general curriculum are directly related to having adequate numbers of and appropriately and effectively trained staff members. The State Special Education Advisory Committee (SSEAC) has cited concern over the last several years regarding the number of special education teachers leaving the field and the high number of teaching staff members with conditional licensure. Inadequate staff training and experience continue to be cited by families as areas of concern relating to general and special education staff members as well as paraprofessionals, related-services personnel, sign language interpreters, and bus drivers.

Those making comments report a lack of collaborative teaching experience, inadequate coursework in special education and/or disabilities for general education teachers, inadequate training and knowledge regarding vocational services and options, curriculum modifications, use of assistive technology, and a reluctance of some school divisions to take advantage of training resources available to them such as the Training and Technical Assistance Centers (TTACs). Concerns are particularly high with respect to meeting the needs of students with disabilities such as autism and brain injury in which specialized training and experience are essential to ensuring that these students receive a free appropriate public education.

Teachers in Virginia public schools are considered to be fully qualified for their position when holding a current five-year, renewable license with endorsements in the area for the position assigned or other appropriate credentials. Concerns expressed through public comment to the SSEAC included challenges in preparing special education teachers to meet the “highly qualified” standard under No Child Left Behind and IDEA 2004 with a fear that the standard will result in less, rather than more qualified instructional staff members.

9. **Inadequate Parent Involvement and Access to Information:** Public comment provided to the Virginia Board for People with Disabilities (VBPD) indicates that even when parents are informed, they often do not understand the complex education laws pertaining to their child with a disability, and they are often unprepared and ill-equipped to advocate for their child’s interests. Parents report feeling overwhelmed with the amount of information and paperwork involved in the special education process and believe they are not provided sufficient information about options and services for which their child may be eligible. This is particularly true when making decisions on assessment and diploma options that affect their child’s future. If parents feel unprepared for their involvement in their child’s education, the students themselves are likely even less informed or prepared to participate in decisions about their future.

Parents also desire and need information on other services, supports, and community resources that may be available to them. Schools are the most natural environment through which parents could receive information on home- and community-based waivers, community service boards or other locally available services, benefits, and benefits planning for postsecondary life. Unfortunately, at this time, many school staff members are not

knowledgeable about programs and services outside of the education system, and thus a prime opportunity to educate and inform parents is lost. The Virginia Department of Education (VDOE) has developed and mailed a survey instrument designed to elicit information on whether schools facilitated parent involvement as a means of improving services and results for children with disabilities; results are pending.

10. **Inadequate Access to and Use of Assistive Technology:** Appropriate access to assistive technology in school divisions is an issue cited by families in public comment and also raised before the State Special Education Advisory Committee (SSEAC). Families report state that even when appropriate technology is included in their child's IEP, the technology is often (1) not available to their child; or (2) the teacher or teachers are not trained in how to use the technology; (3) the child is not allowed to bring the technology home even if it is needed for educational purposes in the home environment; or (4) technology is outdated. Access to needed technology after graduation can also be a problem. While some students may be able to obtain technology under Medicaid or through vocational rehabilitation services, some will not have a payment source and may have to give up a critical support. Use of technology, including state-of-the-art communication devices, can make the difference between school success and failure.
11. **Disproportionate Representation in Special Education Placement:** Past legislative studies and Virginia Department of Education (VDOE) data have found that African American students are generally disproportionately represented in special education when compared to the general population, specifically in the VDOE special education disability classifications of mental retardation (intellectual disability), emotional disturbance, and developmental delay. In 2003–2004, VDOE data noted that African American students spend a greater portion of their day in special education programs. As a result, early academic remediation was implemented as a strategy to address this issue. As noted in the Monitoring and Evaluation section of this chapter, the federal Office of Special Education Programs (OSEP) has implemented a new federal indicator in this area.

VDOE's 2005–2006 data found that 6 percent of school divisions had significant disproportionality and 9 percent had some measure of inappropriate identification. For the 2006–2007 school year, due in part to an altered OSEP methodology for analyzing disproportionate representation discussed earlier, Virginia met the Indicator 9 and 10 targets of 0 percent. Even though the targets were met, VDOE reports in the *Part B Annual Performance Report for 2006–2007* that it continues to provide training and technical assistance to all school divisions regarding these issues. School divisions will continue to review individual student records as the source for providing data to VDOE for the indicators related to disproportionate representation and VDOE will continue to comply with OSEP requirements and upcoming guidance. Because of the requirements have changed and may change further, performance on this indicator bears monitoring.

12. **Challenges in Assessment of and Accountability for Students Receiving Special Education Services:** Families continue to be concerned about their children's participation

in the state's accountability system and the impact of participation, or lack there of, on diploma options, as noted above. Public comments noted concern that some school divisions are "blaming" students with disabilities for low Standards of Learning (SOL) scores and higher costs and parents are fearful that this will result in increased segregation of students with disabilities. Parents are also worried that because of the focus on "high stakes testing" school divisions may increasingly attempt to steer parents into having their children participate in the Virginia Alternate Assessment Program (VAAP), which is available to students who are not in the SOL curriculum. There is a federal limit to the number of students who can take the alternate assessment (1 percent); therefore, it is unclear whether the concern expressed is valid. It does, however, bear monitoring.

- 13. Inadequate Services to Children with Vision Impairments:** According to the Department for the Blind and Vision Impaired (DBVI), children with visual impairments do not always receive the age appropriate orientation and mobility services that they need to travel independently, confidently, and safely in their homes, schools, and communities. As noted in the chapter detail, the level of state funds to support public school programs for students with visual impairment is significantly lower than the support received for other teachers of students with other disabilities. This inequity exists because teachers of these students are funded through the Department for the Blind and Vision Impaired (DBVI) rather than the Virginia Department of Education's (VDOE) Standards of Quality (SOQ) funding formula due. In addition, DBVI's funding to support teacher salaries has remained flat since 1991. Special education teachers of students with visual impairments are the only such teachers who do not have a caseload maximum. This results in much higher caseloads for some instructors of vision-impaired students.
- 14. Lack of Physical Accessibility of Some Public Schools:** Fifteen years after the Americans with Disabilities Act, there are numerous public schools in Virginia that are still not physically accessible. In the City of Richmond, litigation was filed with respect to this issue. Although the law does not require every school to meet ADA guidelines (depending on date of construction and undue burden standards), the availability of accessible school buildings should be reviewed by every community. The lack, or limited availability, of accessible buildings directly and negatively affects school division ability to meet both LRE requirements and the mandate that students should attend the school they would ordinarily attend unless their IEP dictates otherwise. Students with disabilities should be welcome and able to gain access to all public schools in the Commonwealth and should not be separated from their siblings, neighbors, and friends as a result of physical access issues.
- 15. Challenges of Local Advisory Committees (LACs):** In 2005, the Virginia Board for People with Disabilities (VBPD) awarded a grant to the Partnership for People with Disabilities (PPD) and Virginia Department of Education (VDOE). The grant provided training to current and potential LAC members in all eight Superintendent's regions. VDOE contributed substantial resources to this initiative. Although the training received positive reviews, a guide was developed, and VDOE has committed additional funds to continue training LACs, it is unclear whether any systemic change in the operation or outcomes of

LACs has resulted. Public comment provided to the Board in 2007 notes that attendance at LAC meetings remains sporadic and that membership remains static, lacking an infusion of new members. In addition, public comment notes that even when LACs are active, they have little influence over local school board decisions. In a recent development, the draft special education regulations allow for school division personnel to serve as members of the LACs. In the past school division staff members could only serve as consultants. The VDOE staff reports that this change was made so that school division staff members who also happened to be parents of students with disabilities would not be excluded from LAC participation. VBPD is concerned about this potential change in regulation. Public comment over the years indicates that there has been significant interference by local school division staff members in LAC activities; part of the VBPD-sponsored training was aimed at educating school division staff members about their proper role as “consultants.” It is a clear conflict of interest for school staff members to serve on a committee that advises their school board and could be highly intimidating to other committee members.

H. Board Recommendations for Education Services

To ensure improved access to the general curriculum, education in the least-restrictive environment, and improved achievement by students with disabilities, including those with significant disabilities, the Virginia Board for People with Disabilities (VBPD) recommends the following, much of which remains unchanged since the *2006 Biennial Assessment*.

- 1. Provide Increased and Improved Training to Prepare Teachers to Effectively Teach Students with Disabilities:** VBPD recommends that Virginia require that all of its public institutions of higher education mandate special education coursework for students enrolled in teacher training programs. This should include specific coursework in disabilities as well as how to work with students served under an Individualized Education Program (IEP) in the general education classroom. Strategies that should be taught include but are not limited to: collaboration, instructional and learning strategies, and effective schoolwide discipline. In addition, in-service training programs should be developed to ensure that general education and special education teachers receive ongoing continuing training and education in best practices in education of students with complex needs.
- 2. Analyze Student Outcomes as Related to Least Restrictive Environment (LRE), Student Achievement, and Graduation Rates:** VBPD recommends annual trend analysis of the data now being collected regarding the target areas above. In particular, newly available data (since 2005) regarding time spent by children with disabilities outside of the regular education classroom will likely reveal important trends. With LRE a continuing concern for families, these data will enable the Virginia Department of Education (VDOE) to determine whether individual school divisions are complying with LRE requirements. It will also enable VDOE to target its training and technical assistance activities and showcase school divisions that implement best practices and high expectations of students. VDOE should also implement enforcement actions for school divisions that have disproportionate numbers of students educated in more restrictive environments.

Ongoing analysis and public reporting of student achievement and graduation rates should also occur on an annual basis. The State School Report Card is an excellent tool but many of the federally required reports are challenging in format and content, making it difficult for a layperson to understand the data and its implications.

3. **Ensure Access to the General Curriculum/Standards of Learning:** VBPD recommends that VDOE continue to provide technical assistance and guidance to local school divisions to ensure that all students with disabilities have access to the general curriculum and implement appropriate technical assistance and enforcement activities. It should be a priority of every school division to ensure that students are properly assessed for technology needs that will enable them to have appropriate access to the general curriculum. Families should be provided with information on at least an annual basis of their child's right to access to the general curriculum and the effect that choices made with respect to participation in the Standards of Learning (SOL) will have on the student's future. This should include annual information on diploma options and assessment choices and a report on the child's current status with respect to whether he or she is on track to receive a Standard, Advanced, or Modified diploma. Although information provided by VDOE clearly stipulates that parents and students must be informed of the consequences of all decisions related to assessments, it is unclear whether all families understand the ramifications of the decisions that they are making on behalf of the student. While VDOE notes that it is providing Web resources, coordinated statewide training, and workshops for middle and high school administrators, in partnership with the Virginia Association of Secondary School Principals, it is just as important to provide this information in a clear, understandable format to families and students.
4. **Maintain State Regulatory Protections for Families:** VBPD recommends that the Board of Education reverse its position on the removal of certain critical regulatory provisions in the State Special Education Regulations. Virginia's state regulatory protections have historically exceeded federal protections in a number of areas, including consent. Virginia can be proud of this and should continue these important student protections. VBPD opposes the removal of any regulatory provisions designed to protect students and families. VBPD supports maintaining the age at which transition services are mandated at 14 and appreciates that the Board of Education has maintained this age threshold.
5. **Ensure Appropriate Services to Students with Autism:** VBPD supports current statewide efforts underway not just in education but also throughout the disability services system to develop a system of services and supports for persons with Autism Spectrum Disorders across the life span. The need is particularly urgent in the area of education where there is great variability in the services provided to students with autism depending on where the student resides, the wealth of the locality, and the strength of parent advocacy groups. VBPD recommends that Virginia examine the work of other states that have developed a statewide system that ensures that all students have access to effective, appropriate services. While the Board does not support any specific model of intervention, states like North Carolina can be used as models for best practices in statewide service delivery. Numerous interventions are

available, many of which have only anecdotal evidence of efficacy but no scientific research establishing them as effective interventions. As noted in the Early Intervention section, as therapies and interventions are developed, it is critical that the Commonwealth keep up with effective, evidence-based practices in order to be responsible and prudent with public dollars and to ensure that therapies and interventions paid for by taxpayers have the best outcomes for students.

6. **Increase Pool of Providers for Students with Vision and Hearing Disabilities:** VBPD recommends (as noted in 2006) that Virginia reestablish an approved preparation program for teachers of students with vision impairment (TVI) at one of its colleges or universities. This will help school divisions fill their vacant TVI positions and will expand the number of TVI teachers in Virginia. Middle and secondary schools in Virginia should be strongly encouraged to offer American Sign Language (ASL) as part of foreign language offerings; and, in addition, public institutions of higher education should be encouraged to accept ASL as a foreign language for purposes of college admission.
7. **Evaluate the Impact of Technical Assistance Efforts on Local Practice:** The Virginia Department of Education (VDOE) has numerous initiatives in place that are designed to improve student academic achievement, instructional quality, graduation rates, transition services, quality and quantity of providers, etc. Innumerable technical assistance documents have been developed and training through the Training and Technical Assistance Centers (TTACs), among other resources, are available. VBPD recommends that VDOE examine and address the apparent gap between the efforts being done at the state level and the limited or lack of implementation at the local level within the constraints of a system in which local control is a principal tenet.

Education Services Sources Referenced in this Chapter

Web Sites:

Head Start, Virginia Department of Social Services (DSS):

www.dss.virginia.gov/family/cc/headstart.html

Learning Disabilities Association of America:

www.lidaamerica.org/aboutld/parents/special_ed/eligibility.asp

U.S. Department of Administration for Children and Families: www.acf.hhs.gov/

Office of Head Start: <http://www.acf.hhs.gov/programs/hsb>

Head Start Program Fact Sheet: FY 2007:

<http://www.acf.hhs.gov/programs/hsb/about/fy2007.html>

U.S. Department of Education: www.ed.gov

Virginia Department for the Blind and Vision Impaired (DVBI): <http://www.vdbvi.org/>

Virginia Department of Education (VDOE): www.doe.virginia.gov

Division of Special Education & Student Services: www.doe.virginia.gov/VDOE/sped/

Office of Dispute Resolution & Administrative Services:

<http://www.doe.virginia.gov/VDOE/dueproc/>

www.doe.virginia.gov/VDOE/Instruction/med_bro.pdf

www.doe.virginia.gov/VDOE/dueproc/complaints.shtml

Reports & Publications: www.doe.virginia.gov/publications/

<http://www.doe.virginia.gov/VDOE/Publications/>

Virginia Department of Rehabilitative Services (DRS): www.vadrs.org

Virginia Head Start Association: <http://www.headstartva.org/>

Virginia School for the Deaf and Blind at Staunton: www.vsdb.virginia.gov/

Virginia School for the Deaf, Blind and Multi-Disabled in Hampton Roads:

www.vsdbmh.virginia.gov/

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