

III. Education

A. Introduction

All children in the United States are entitled to a publicly funded education. Students with disabilities are also entitled to services and supports, referred to as “special education,” which assure that the education they receive is appropriate to their individual needs.

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

The Virginia Department of Education (VDOE) states on its early childhood website that “**the earlier services are provided for children with disabilities, the better the long-term prognosis. Children with special needs who have experienced support early in life do better in future settings.**” Research shows that participation in programs with typically developing peers is beneficial to all and enhances the language, social skills, and participation in a typical curriculum.” 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 of children with disabilities from the early intervention services system, Part C of IDEA, to the public education system begins at age three. Virginia, however, has adopted the option of making the transition to preschool special education services, Part B of IDEA, for eligible children as early as age two.

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 20-81-10 *et seq.*) establish the **Virginia 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 School for the Deaf and the Blind at Staunton, and private schools in the Commonwealth that provide special education and related services for children with disabilities.

The most recent state regulations became effective in July 2009, following revisions to federal regulations in 2006 that implemented changes enacted in the 2004 amendment of IDEA. State regulations were reissued by the Board of Education following technical amendments, effective January 25, 2010.

In accordance with these federal and state mandates, Virginia's 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; and
- Measure student progress and identify when parents are to be notified of that progress.

A key development since the 2008 edition of this assessment, already mentioned above, has been the promulgation of revised state regulations, effective in July 2009 after a two year development process. According to the *Comparison of Virginia Regulations and IDEA 2004*, published by the **Virginia Department of Education (VDOE)** in February 2010, conformation to the revised federal IDEA regulations required creation of 53 new Virginia-specific provisions in the state's 2009-2010 regulatory revisions.

The process for development of revised Virginia regulations included opportunities for extensive public input, and there was significant discussion among stakeholders and between stakeholders and VDOE with respect to how Virginia should proceed. Some constituent groups wanted Virginia to minimize regulation, conform to federal regulations, and eliminate provisions in which Virginia regulations exceeded federal regulations. Other stakeholders urged the Virginia Board of Education to maintain the Commonwealth's historical commitment to protections for students and families beyond those provided in federal regulations.

The resulting regulations were a compromise between those perspectives. Key parental consent provisions were maintained, as was Virginia's earlier age for transition planning, 14 versus the federal requirement of 16. Among their many provisions, which can be found in full at www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf, the regulations:

- Revised the concept and name of the long-standing "child study teams" to "school-based teams";

- Decreased the age at which a child can have an educational label of developmental delay from nine to six;
- Established specific eligibility criteria beyond federal definitions for autism, deafness, developmental delay, hearing impairment, intellectual disability, other health impairment, speech or language impairment, and visual impairment;
- Altered provisions relating to timelines for determining initial eligibility and for evaluation/reevaluation, expanding the exception to the deadline when additional data are required to cover all disabilities rather than just specific learning disabilities;
- Established a provision ensuring that parents are provided copies of evaluation reports within a reasonable time period;
- Expanded the requirements for determining eligibility for students with learning disabilities to cover all disabilities;
- Established new provisions relating to determination of eligibility based on individual need and created several additional provisions relating to determination of eligibility;
- Established provisions related to children who do not live with their biological parent, emancipated minors, married minors, children with questionable immigration status, children with long-term placements in state-operated programs, and children in foster care;
- Prohibited local education agencies (LEAs) from restricting the extended school year (ESY) services to summer;
- Clarified that the 30 day timeline which applies to the development of an Individualized Education Program (IEP) following initial eligibility also applies to IEP development following reevaluation and eligibility if changes are needed;
- Created provisions regarding an LEA's determination of the school personnel who will serve on an IEP team, ensuring parental participation, providing IEP copies to parents, documenting whether a child's IEP should include short-term objectives or benchmarks, and expanding notification requirements for transfer of rights to the student at age 18 to provide parents with notice as well;
- Modified certain provisions covering procedural safeguards, including parental notice requirements, Internet posting of safeguards, and consent requirements related to children who are wards of the state;
- Revised the timeframe for appealing due process decisions in state circuit court to 180 days, consistent with *Code of Virginia*, Section 22.1-214B;
- Addressed provision of records and IEP development information for students who transfer from another school division or state; and
- Added a requirement that the membership of local special education advisory councils include a teacher.

Some students with disabilities receive reasonable accommodations to their educational program under **Section 504** of the federal *Rehabilitation Act* of 1973 (29 USC 794), as amended, and its implementing regulations (34 CFR 104). Section 504 states that “no qualified individual with a disability in the United States shall be excluded from, denied the benefits of, or be subjected to discrimination under any program or activity that either receives Federal financial assistance or is conducted by any Executive agency or the United States Postal Service.” This includes local school divisions because they receive federal funds.

Students with disabilities receiving accommodations under Section 504 must have a “504 plan.” This plan is generally developed by a committee consisting of the student with the disability, if appropriate; one or more of the student’s parents or guardians, one or more of the student’s teachers, and the school’s 504 coordinator. A 504 plan, which must be updated annually, documents the student’s disability, his or her need for accommodations, and the set of specific accommodations that will be provided by the school. Later sections of this chapter provide additional details regarding 504 plans and the Individualized Education Programs (IEP) required under IDEA and referenced briefly above.

Laws and regulations governing education services for students with disabilities are extremely complex and cannot be fully covered within the scope of this chapter. This chapter focuses on the major publicly funded special education services that individuals with disabilities may be eligible to receive under IDEA Part B from preschool through high school. These services are provided by **Head Start** programs, public school divisions (formally known as **local education agencies, LEAs**), the **Virginia Department for the Blind and Vision Impaired (DBVI)**, and the **Virginia School for the Deaf and the Blind at Staunton (VDSB-Staunton)**.

VDSB-Staunton was established as a state agency, independent of the Virginia Department of Education (VDOE) by an act of the 2009 General Assembly (*Code of Virginia* 22.1-346), effective on July 1 of that year. Under that act, it has its own Board of Visitors, and the Superintendent of Public Instruction is required to designate a VDOE staff member to serve as a consultant to it on matters pertaining to instruction, federal and state special education requirements, and school accreditation.

Earlier editions of this assessment covered services provided at the Virginia School for the Deaf, Blind, and Multi-Disabled in Hampton. As a result of many legislative and other studies, which considered the dwindling number of students being served and the significantly increasing cost per student, the Hampton school was closed and services were consolidated at the Staunton campus. The 2008 edition of this assessment noted the state’s intention to transform the Hampton campus into a regional day program; however, since then, plans have changed. In a presentation before the House Appropriations Committee in June 2008, *Consolidation of the Two Virginia Schools for the Deaf and Blind*, the Superintendent of Public Instruction reported that, although proposals were solicited over a period of months from entities interested in operating a regional day program, no viable proposals were received.

There are also Virginia children with disabilities who 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 training centers, or other residential programs. Detailed discussions of the services provided in those setting is beyond the scope of this assessment.

B. Eligibility for Education Services

Eligible children with disabilities may receive preschool special education services through the public education system, which includes the state-operated program at the Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton), and through Head Start. Some four-year-olds with developmental delays may also be served under the Virginia Preschool Initiative.

Head Start: Children from birth to age five whose families meet income eligibility requirements receive services promoting academic, social, and emotional development through federally funded and locally operated Head Start programs. Federal Head Start Regulations (45 CFR 1305.4) 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 ten percent of enrolled children can be from families that exceed the low-income guidelines, provided that those children (1) meet the selection criteria that the local program has established and (2) would benefit from Head Start services.
- The *Head Start Act* of 2007 requires that beginning on October 1, 2008, the start of federal fiscal year (FFY) 2008, "not less than ten percent of the total number of children actually enrolled by each Head Start and delegate agency be children with disabilities who are determined to be eligible for special education and related services, or early intervention services ... by the state or local agency providing services under Section 619 or Part C of the *Individuals with Disabilities Education Act* (IDEA, 20 USC 1419, 1431 *et seq.*)"

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 for selecting children to participate. These criteria must ensure that all eligible children are considered and, among other requirements, must consider the availability, or lack

thereof, of kindergarten or first grade for the child. Programs that serve migrant worker populations are required to give priority to those children whose families have had to relocate frequently within the previous two years in order to obtain work.

Federal regulations further require that Head Start grantees, or the agencies to which the grantee delegates the operations of the Head Start program in their area, conduct outreach activities that include strategies to actively locate and recruit children with disabilities. They must also ensure that recruitment staff are knowledgeable of the nondiscrimination tenets of the *Americans with Disabilities Act* (42 USC 12101) and regulations associated with Section 504 of the *Rehabilitation Act* (45 CFR 84). Accordingly, a Head Start program cannot deny placement on the basis of a disability or its severity when (1) the parents wish to enroll the child, (2) the child meets Head Start age and income eligibility criteria, (3) Head Start is an appropriate placement according to the child's Individualized Education Program (IEP), and (4) the program has space to enroll more children, even though the program has made ten percent of its enrollment opportunities available to children with disabilities. In the latter case, children with and without disabilities would compete for available enrollment opportunities.

At the beginning of every program year, each Head Start program is required to develop a waiting list of unselected eligible children which must be maintained throughout that year. Applicants placed on that waiting list must be ranked according to the program's selection criteria to ensure that the most needy children are served first as vacancies occur.

Virginia Preschool Initiative: Children who are not being served by Head Start may be eligible to enter a Virginia Preschool Initiative program, which lists developmental delay as one of the "at risk" categories in its eligibility criteria.

Part B Preschool Services: In Virginia, preschool services are available to eligible children with disabilities from ages two to five. Part B of the *Individuals with Disabilities Education Improvement Act* (IDEA) mandates that such services be available starting at age three, but Virginia parents have the option of either IDEA Part B preschool or IDEA Part C early intervention services for their child between the ages of 24 and 36 months. A separate eligibility determination is required for Part B services from that required for Part C, 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 special education and related services.

K-12 Special Education: 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 education agencies (LEAs) overseen by the Virginia Department of Education (VDOE). Eligibility for IDEA Part B services at all levels (preschool, elementary, and secondary) involves a standard process. VDOE's *Parent's Guide to Special Education* (www.doe.virginia.gov/special_ed/parents/parents_guide.pdf) was revised in 2010 and provides a clear, user-friendly, and comprehensive guide to the special education process.

Statewide outreach activities by LEAs, known as **Child Find**, are the first step in determining eligibility for Part B services, including early childhood preschool services. Through Child Find, Virginia LEAs must identify, locate, and evaluate children with disabilities who need special education and related services. These children must be identified regardless of citizenship or immigration status, and Child Find must include children who are enrolled in public (including charter) and private (secular or religious) elementary and secondary schools; who are highly mobile, such as children of migrant worker or homeless families; who are under age 18 and incarcerated in a regional or local jail for ten or more days or under house arrest; who are receiving homebound or home-based instruction; and who are receiving services in a private residential placement by a *Comprehensive Services Act* (CSA) team. (The Community Supports chapter of this assessment contains more information on the CSA.) Specific Child Find activities 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 professional to request evaluations.

"School-based teams" are responsible for making referrals for evaluation. These teams are more flexible than their predecessors, "child study teams," and are designed to be focused on general education with a goal, at least in part, of avoiding unnecessary referrals to special education. The change from child study teams to school-based teams was one of the more controversial revisions to state regulations. Initial drafts of the regulations completely eliminated the child study teams concept.

When a child is referred, either through Child Find or another mechanism, the school-based team reviews the child's education records and other information and makes recommendations regarding the child's educational and behavioral needs. This may include documentation of evidence-based interventions that have been used with the child. A child cannot be found eligible for special education and related services if the reason the child meets criteria is because he or she did not have appropriate instruction in math or reading or uses a language other than English.

School-based teams include the individual who referred the child (unless there are confidentiality issues), the school principal or designee, at least one specialist and one person knowledgeable of alternate interventions and services, and others that are determined necessary. The team can make a referral for evaluation for special education and related services at any time, including during the time frame in which alternate interventions are being tried with the student.

Evaluations for special education and related services require written parental consent. Current state regulations require that evaluations must be completed within 65 business days after consent is given, with exceptions for when a parent refuses to make the child available for

evaluations or when a child transfers to a new school division mid-evaluation. An evaluation for eligibility to receive special education services must address all areas related to the child's suspected disability. Evaluations are multi-disciplinary and typically involve more than one professional. The process may involve assessments by all or some of the following: an educational diagnostician, a school psychologist, occupational and physical therapists, a speech/language pathologist, and a social worker. Based on the results of the evaluation, a team determines whether the child has a disability and whether he or she requires special education and related services as a result of that disability.

To qualify for special education and related services, a child must fall within one of the disability categories specified by the *Individuals with Disabilities Education Improvement Act* (IDEA): autism, deafblindness, 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. As noted above, the child must also meet the expanded definitions within the newly revised *State Regulations Governing Special Education Programs for Children with Disabilities*. A child can be determined eligible for special education services under the label of "developmental delay" if a school division chooses to use that educational category, but only through age six under the new regulations.

Once determined eligible, 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 LEA agree otherwise. Reevaluations can be based on existing data, or if these data are insufficient, new data can be gathered.

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 (IEE)** at the school's expense. Parents also have the right to appeal the determination of eligibility and any other decisions that affect their child's education. LEAs have the right to contest the need for an IEE and any other parental appeals. A family can, at all times, obtain an outside evaluation at their own expense if they choose to do so. Any such evaluations must be considered by the school division.

Basic eligibility criteria do not differ for children who may receive preschool or K-12 special education services through the program operated by **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)**. There are, however, additional program admission criteria which are independent of those for determining if a child is eligible for services by a local school district. A student's IEP team makes the decision, based on his or her individual needs, whether services should be received at VSDB-Staunton, and that decision is reassessed annually.

C. Access to and Delivery of Education Services

Both preschool and elementary through secondary (K-12) school services are delivered through local educational agencies (LEAs) and the state-operated programs at the Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton). 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 are delivered in a separate school and are considered part of the continuum of placements for all children. Preschoolers also receive services through local Head Start programs and the Virginia Preschool Initiative.

Head Start: The mission of Head Start is to better prepare at-risk children for school and later achievement. Achieving this “school readiness” involves not only the children, but also their families, the schools, and the entire community. Local programs are operated by community action organizations, single purpose agencies, local governments, and public school divisions.

Since its inception in 1965, Head Start has grown nationally to encompass 2,864 programs, including Early Head Start and Migrant/Seasonal Head Start, that served 1,116,466 children in federal fiscal year (FFY) 2010. During that same year, according to the **Virginia Head Start Office** at the **Virginia Department of Social Services (DSS)**, there were 48 Head Start programs in the Commonwealth, and of these, 46 provided preschool services. Fact sheets published by the Administration on Children and Families show that total Head Start enrollment in Virginia, listed below, has remained stable for the past three federal fiscal years (FFY). Information on the 18 Early Head Start programs that provide services for younger children can be found in the Early Intervention chapter of this assessment.

CUMULATIVE VIRGINIA HEAD START ENROLLMENT

<u>Federal Fiscal Year</u>	<u>Enrollment</u>
2008	15,317
2009	15,673
2010	16,319

Source: Administration on Children and Families: *Head Start Program Fact Sheet*.
[http://eclkc.ohs.acf.hhs.gov/hslc/Head%20Start%20Program/Head%20Start%20Program%20Fact sheets](http://eclkc.ohs.acf.hhs.gov/hslc/Head%20Start%20Program/Head%20Start%20Program%20Fact%20sheets).

As noted above, federal Head Start regulations require programs to be proactive in informing families about the program and encouraging them to apply. This specifically includes coordinating their recruitment activities with other early intervention and special education programs, as well as local health departments and practitioners, to identify children with disabilities. Outreach activities suggested by federal regulations include canvassing the local community, news releases and advertising, and the 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, to assist those families in completing the application.

Once a child has been determined eligible for and enrolls 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 daycare. Community assessments, which are updated annually, are used to 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.

Head Start staff work closely with a wide variety of community resources to obtain training materials and 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 the local education agency (LEA) service providers to monitor each child's progress and coordinate activities.

The Head Start *Program Information Report* for federal fiscal year (FFY) 2009 reports that 11.9 percent of the children participating in Virginia's Head Start programs had an Individualized Education Program (IEP) in the year prior to their enrollment, compared to 11.5 percent nationally. For FFY 2010, the percentage in Virginia was 12.6 percent, compared to 11.9 percent nationally.

The 2008 edition of this assessment reported a 7.4 percent decline in the number of Virginia Head Start enrollees with a primary disability from 1,928 in FFY 2004 to 1,786 in FFY 2006. As the table below illustrates, this decline continued into FFY 2008, then returned to the FFY 2006 level over the past two years. This trend is mimicked by data for the individual categories with higher numbers, but as might be expected, there is more variability for the categories with lower counts. The number of children diagnosed with autism has not increased significantly despite well-publicized increases in the prevalence of autism spectrum disorders (ASD). While no specific conclusions can be drawn from this data, late diagnosis of ASD is the likely cause. Children who ultimately have a diagnosis of autism may be receiving services in the categories of non-categorical developmental delay or speech impairment. The reason for the spike in the number of children with an emotional/behavioral disability for FFY 2009, an anomaly which has been confirmed by the Virginia Head Start Office, is not known.

**PRIMARY DISABILITIES OF PRESCHOOL CHILDREN
RECEIVING HEAD START SERVICES IN VIRGINIA**

Federal Fiscal Year	2007	2008	2009	2010
Autism	18	22	16	19
Developmental Delay, Non-Categorical	543	491	537	565
Emotional/Behavioral	5	8	116	29
Health Impairment	16	9	14	9
Hearing Impairment	3	2	11	12
Intellectual Disability	1	2	7	3
Learning Disabilities	20	23	18	29
Orthopedic Impairment	7	7	6	2
Speech Impairment	1,015	979	970	1,063
Traumatic Brain Injury	0	2	1	0
Vision Impairment	6	4	5	5
Multiple Disabilities	47	59	27	46
TOTAL	1,681	1,608	1,728	1,782

Source: Virginia Department of Social Services, Virginia Head Start Office.

Virginia Preschool Initiative: Some Virginia localities provide services for at-risk four-year-olds, including those with developmental delay, through this grant-funded program managed by the Virginia Department of Education (VDOE). To obtain state funding, the *Guidelines for the Virginia Preschool Initiative Application* requires localities to develop a written local plan for programs that include five services: quality preschool education, parental involvement, comprehensive child health and social services, and transportation. They are further expected to coordinate resources and funding streams to serve the greatest number of eligible children. Localities receiving funding can use it to:

- Establish or expand quality, comprehensive preschool programs in public schools or community sites,
- Purchase quality preschool education programs and services for at-risk four-year-old children from existing providers,
- Expand existing quality programs to serve more children, and
- Upgrade existing programs to meet criteria for comprehensive, quality preschool programs to serve new, unserved children.

Localities are required to use a tool called the **Phonological Awareness Literacy Screening-PreK (PALS)** during the fall and spring of each school year, and their program's curriculum must align with **Virginia's Foundation Blocks for Early Learning**. The Foundation Blocks establish a measurable range of skills and knowledge essential for four-year-olds to be successful in kindergarten. They provide early childhood educators with a

comprehensive set of standards, indicative of success for entering kindergarten, that are derived from scientifically based research.

Enrollment data for the Virginia Preschool Initiative does not distinguish between the number of children with disabilities and other at-risk children served by the program. For the 2006-2007 school year, the first for which VDOE reported enrollment on the Virginia Performs website, enrollment in the initiative was 11,343. Data below for the past two years shows a significant increase since then, 40 percent by school year 2009-2010, which enabled VDOE to well exceed its enrollment target of 15,000.

CUMULATIVE VIRGINIA HEAD START ENROLLMENT

<u>School Year</u>	<u>Enrollment</u>
2008-2009	15,639
2009-2010	15,901

Source: Virginia Department of Education (VDOE). Retrieved from Virginia Performs: <http://vaperforms.virginia.gov/agencylevel/src/displaymsr.cfm?measureid=20100000.001.001>.

Part B Preschool Services: Early childhood special education services are provided by local school divisions to eligible children who have an Individualized Education Program (IEP). Procedures for accessing Part B preschool services are the same as those for children accessing Part B elementary or secondary school services. Those procedures and enrollment statistics are covered below under K-12 Special Education.

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.” Once determined eligible for special education services as described in the section above, an **Individualized Education Program (IEP)** must be developed for the student within 30 calendar 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 the student, when appropriate, come together to look closely at the student’s unique needs and strengths. These individuals pool their knowledge, experience, and commitment to design an educational program that will support the student’s involvement and progress in the general curriculum and ensure equal access to programs and services. By law, the IEP must include information on:

- The student’s current level of achievement and functional performance;

- Measurable annual goals;
- Short-term objectives/benchmarks for students not participating in the Standards of Learning curriculum (note that the IEP team can agree to include short-term objectives in the IEP of a student who is not in an alternate curriculum);
- Special education and related services needed to meet his or her individual needs, necessary supplementary aids, and resources;
- A determination on participation in division-wide 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 as well as modifications to them, and transition service needs and transition services at the appropriate age;
- The environment in which special education services will be provided;
- How the child's progress toward the annual goals will be measured and when periodic reports on the child's progress in meeting annual goals will be provided;
- Secondary transition services including postsecondary goals and transition services beginning at age 14 and a statement of interagency responsibilities and linkages beginning at age 16 or younger if appropriate; and
- A statement of rights at age of majority at least one year prior to a student turning 18.

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”; however, inclusive practices are not a legal principle. “Placement in the LRE” is the legal requirement, which may or may not result in a child receiving services in a regular education classroom. The decision regarding the environment in which special education services will be delivered must be 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, 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. All students must be considered for participation in the SOL assessments with or without accommodation.

Once an IEP has been developed and agreed on, the **local education 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.

Until a student graduates with a standard or advanced studies high school diploma or reaches his or her 22nd birthday, special education and related services cannot be terminated without an evaluation by the school that finds him or her no longer eligible for services. That evaluation can be a review of existing information or the result of new assessments.

At times, parents may not agree with a student's IEP, the location in which services will be delivered, or other issues regarding the provision of services, such as the "free appropriate public education" (FAPE) 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 federal law and regulations, school divisions are also required to offer a **resolution** session to parents. Additional detailed information on dispute resolution mechanisms is available from the Virginia Department of Education (VDOE) and described in the monitoring and evaluation section of this chapter.

VDOE annually collects data from LEAs on the number of children receiving services on the same day, December 1. This **December Child Count** is a "point-in-time" census and does not represent the total number of children served during the year. The table below shows the number of children with disabilities receiving special education and related services statewide by disability category for every other year from 2003 through 2009. Over this period, the total number of students reported in the December Child Count declined by 4.6 percent.

STUDENTS RECEIVING SPECIAL EDUCATION SERVICES, DECEMBER CHILD COUNT

VDOE Disability Category	12/1/2003	2005	2007	2009
Autism	3,966	5,674	7,580	10,092
Deafblindness	13	31	13	20
Developmental Delay	13,351	14,945	15,178	13,226
Emotional Disturbance	13,058	12,425	11,011	10,125
Other Health Impairments	21,749	25,600	26,947	27,811
Hearing Impairments	1,563	1,538	1,547	1,489
Intellectual Disability	13,064	11,823	10,409	9,913
Specific Learning Disabilities	70,188	65,686	60,628	57,566
Orthopedic Impairment	851	934	910	912
Speech/Language Impairment	31,337	32,239	30,476	29,771
Traumatic Brain Injury	348	369	393	402
Vision Disability	507	486	541	612
Severe Disability	1,060	970	978	796
Multiple Disabilities	2,816	3,010	2,927	3,139
TOTAL	173,871	175,730	169,538	165,874

Source: Virginia Department of Education: December Child Count for 2003, 2005, 2007 & 2009 for school divisions and state operated programs. Note that, at the time of this assessment, data from the 2010 December Child Count were not yet available.

At the same time, the number of children with an educational classification of autism has continued to increase dramatically, by 150 percent, from 3,966 in 2003 to 10,092 in 2009. In just the past two years, it has increased by 33 percent, from 7,580 in 2007, and a further increase is anticipated when data from the 2010 December Child Count become available. There is likely a combination of reasons for this trend: (1) a real increase in children diagnosed as having an autism spectrum disorder (ASD) and earlier identification of children with ASD; (2) more appropriate educational classification of young children who may have previously had an educational label of intellectual disability, severe disability, emotional disturbance, or developmental delay; and (3) increased vigilance by parents and educators, due in part to widespread national media coverage, that has raised awareness of the characteristics of autism and led to earlier identification.

The **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)** is one of the available educational resources for a student who is deaf, blind, or deafblind, and placement at VSDB-Staunton is determined by his or her IEP team. Drawing on the letters in its acronym, the school's 2010-2012 *Strategic Plan* describes its mission as: "to provide educational programs and services to students ages two through 21 who are deaf, blind, and multi-disabled. Educational and residential services shall promote: V—Value for each person and their unique abilities, S—Success in meeting each student's academic goals, D—Diversity in instruction to meet the needs of all students, B—Building opportunities that foster expertise in technology and its integration, communication, and achievement for all staff and students and their families."

D. Available Education Services

Head Start Preschool: “Funded enrollment” in Head Start refers to children whose participation is federally supported. Total enrollment also includes children whose families contribute toward their participation because the family’s income is too high to qualify for federal support. During the 2010 program year (federal fiscal year, FFY), 61 percent of the funded-enrollment children served by Virginia’s 48 Head Start grantees received full-day, center-based services for five days a week. Another 20 percent received part-day, center-based services for four days a week. Many of the Head Start grantees offer additional services to meet the needs of working families, including full-time day, home-based, a combination of center- and home-based, family child care, and locally designated options.

As noted previously, Head Start focuses on school-readiness and the development and demonstration of skills in literacy, language knowledge, listening comprehension, mathematics, science, creative arts, social and physical development, and approach to learning. 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 information and training for parents, staff, and service providers on how to better meet the special needs of participating children.

Students who participate in Head Start who have an Individualized Education Program (IEP) receive all of the services in their IEPs as well as comprehensive Head Start services. Head Start programs are also 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.

Virginia Preschool Initiative: Programs funded through this initiative provide instruction in math, science, history, and social science, as well as physical and motor development and personal and social development. As described earlier, curricula in these areas prepare at-risk four-year-olds to enter kindergarten and are based on Virginia’s *Foundation Blocks for Early Learning: Comprehensive Standards for Four-Year-Olds*, published in 2007.

Part B Preschool Services: As with the other preschool programs described above, the goal of these services is to ensure that children are as prepared to enter kindergarten as possible. Preschool services focus on development of age-appropriate social/emotional skills, including social relationships, acquisition and use of knowledge and skills such as early language and early literacy, and the use of appropriate behaviors to meet needs. Eligible preschoolers are provided with all of the services and supports deemed necessary in their Individualized Education Programs (IEPs). Available services are the same as for K-12 special education and are listed in that section below.

In addition to locally provided Part B preschool services, the **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)** offers preschool services for children who are deaf, hard of hearing, or who have cochlear implants. Its *Program of Studies for 2010-2011*

describes services for preschoolers that focus on hands-on developmentally appropriate instruction designed to achieve maximum development of language, cognition, social/emotional skills, motor skills, speech, and listening skills. The curriculum is based on the child's interests as revealed through play, conversations, and interactions with their environment. Preschoolers go on regular field trips that help foster overall growth and improved communication. Early literacy development is emphasized and the Creative Curriculum and the state-mandated Building Blocks standards are followed. Preschool students also participate in physical education and art classes. Families are an important part of the preschool program and receive daily communications in a variety of forms, as well as monthly home visits from members of their child's team to share additional information about their child's needs and progress. Parents participate in various activities with their child throughout the school year and are provided workshops to enhance their learning and interaction with their child.

The **VSDB-Staunton Audiology Clinic** is an approved diagnostic testing site for Virginia's Universal Newborn Hearing Screening Program coordinated through the Department of Health (VDH). Evaluations of public school children are done at the request of local school systems to identify children with hearing loss as early as possible so that needed services and supports can be provided.

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

Counseling, including rehabilitation counseling	Psychological services
Early identification and assessment	School health/nurse services
Medical services (within criteria)	Social work services
Orientation and mobility services	Speech language pathology and audiology services
Physical and occupational therapy	Transportation

Other developmental, corrective, or supportive services may also be provided if required for a child with a disability to benefit from special education. The **Department for the Blind and Vision Impaired (DBVI)** consults with Virginia schools to provide comprehensive programming to students who are blind, vision impaired, or deafblind. Services provided by DBVI include educational and developmental materials, vision assessments and eye exams, and adaptive optical aids. To meet federal requirements for accessible instructional materials needed by students with print disabilities, a center has been established at **George Mason University (GMU)** to process textbooks and other instructional materials into various formats including talking books and Braille and provide them to all local school divisions, as needed and requested.

All students must be included in the state's accountability system and must be first considered for participation in the **Virginia Standards of Learning (SOL) Assessment**. A student's Individualized Education Program (IEP) must specify whether the student is participating in the SOL Assessment, with or without accommodation, or in one of the Commonwealth's alternate assessment programs: the **Virginia Alternate Assessment Program (VAAP)**, the **Virginia Grade Level Alternative (VGLA)**, the **Virginia Modified Achievement Standards Tests (VMASST)**, or the **Virginia Substitute Evaluation Program (VSEP)**. A child must meet the specific criteria for participation in an alternate assessment and their use is intended to be limited. Information about these assessment options and their potential impact on course of study can be found at www.doe.virginia.gov/students_parents/index.shtml#testing.

The 2010 General Assembly passed House Bill 304 to further ensure that students are not inappropriately directed away from the SOL Assessment. Subsequently, in April 2010, the Virginia Department of Education's Superintendent of Instruction (VDOE Superintendent's Memo #096-10) informed local school division superintendents of changes to the VGLA implementing specific criteria for participation by students with disabilities who have an IEP or a 504 Plan beginning with the 2010-2011 school year. IEP teams and 504 committees are required to provide a justification and supporting documentation to explain why they have determined that the student's disability prevents him or her from participating in the SOL Assessments even with accommodations.

Earlier editions of this assessment noted differences between K-12 instruction at the Virginia School for the Deaf and Blind in Staunton and the Virginia School for the Deaf, Blind, and Multi-Disabled in Hampton. With their merger to form the **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)**, changes were implemented to their consolidated curricula which now provides training in student's disability areas as well as concentrated instruction in core academic areas. As is the case with local school divisions, VSDB-Staunton is required to follow all federal and state regulations pertaining to the education of students with disabilities.

VSDB-Staunton's **Department for the Blind** focuses on enabling students to become independent, emphasizing 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 of recorded text and voice output, and social interaction and self-advocacy skills. Individual and group instruction is also provided for students in body image, organization, sensory awareness, and independent travel. In addition, a behavioral management specialist conducts individual and group counseling in the areas of emotional, social, and behavioral needs and concerns.

Just as in the public school system, students can take electives in their areas of interest, and they can also enroll in vocational classes at the Valley Vocational Technical School or college courses at Blue Ridge Tech Prep Academy. Additionally, students may be eligible to

take certain classes at local high schools. All students participate in SOL Assessments and can pursue all available diploma options.

Although currently suspended due to ongoing facility renovations, VDSB-Staunton also offers an outreach service, the **Summer Enrichment Program**. This program for students from across the state with vision loss is presented over five days and based on history themes. Four basic courses cover Reading/Study Skills, Math/Money Management, Independent Living Skills, and Everyday Technology/Signature.

VDSB-Staunton's **Department for the Deaf** provides services leading to independence for children with severe to profound hearing impairments. Providing students with the tools to communicate effectively is the program's key function. Both the general education curriculum and the Standards of Learning (SOLs) are covered. Comprehensive academic and vocational offerings are provided as are diagnostic, habilitative, and rehabilitative services in the areas of speech, reading/language, and auditory training. A parent-education teacher works to assist parents in communicating better with their children. As in the Department for the Blind, a behavioral management specialist is available for individual and group counseling to address social, emotional, and behavioral needs and concerns, and students with hearing loss can take courses at Valley Vocational Technical School. Students are given opportunities to take courses in local public schools and to experience work-related activities through jobs acquired in the community. As part of each student's Individualized Education Program (IEP), a transition plan is developed and updated annually, including preparation for the Standards of Learning (SOLs) and other standardized tests.

Part B Transition Services: During adolescence, preparation for postsecondary education, training, or employment is a critical addition to a student's Individualized Education Program (IEP). Federal and state laws and regulations 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 commencement of transition planning 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 begin as early as needed and has maintained age 14 as the minimum transition age in its state special education regulations.

To be most effective, and by law, transition planning must be based on the individual student's needs, taking into account his or her 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, 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 website on transition resources and has devoted significant resources to promotion of best practices and provision of technical assistance for transition. It offers all school divisions an opportunity to participate in the Virginia Transition Outcomes Project, sponsors an annual transition conference, and provides 16 regional transition specialists to support local public schools.

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

- Case management, job-related, or other services from Community Services Boards (CSBs), behavioral health authorities, or other appropriate providers;
- A Home and Community Based Services (HCBS) Waiver support coordinator;
- Peer-counseling and other support services from Centers for Independent Living (CILs);
- 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.

The interagency **Postsecondary Education/Rehabilitation Transition (PERT)** program, operated by DRS' Woodrow Wilson Rehabilitation Center (WWRC) in Fishersville, is available to all LEAs and many choose to participate. The PERT program's advisory committee, comprised of parents and former participants, focuses on helping students achieve a smooth transition to postsecondary activities. Local PERT teams within each participating school division identify appropriate students to participate in PERT evaluations then work with those students and their IEP teams to plan and implement educational and rehabilitative services based on the results.

There are two components to the PERT program. An initial, five- to ten-day, residential evaluation at WWRC determines students' vocational strengths and aptitudes, independent-living and leisure skills, and functional abilities, as well as their social, interpersonal, and personal-adjustment skills. Findings and recommendations resulting from this evaluation are used by local PERT teams to address the school-to-work transition component of the students' IEPs.

Participation in a Situation Assessment, the second component of PERT, is the result of IEP recommendations made at the local level. Students who undergo this assessment have the opportunity to further refine their vocational interests and skill areas, develop good work habits, and clarify their vocational goals.

In state fiscal year (SFY) 2009, PERT conducted a total of 498 evaluations. Of these, 438 were initial evaluations, 59 were Situation Assessments, and one student was identified as being a “youth in transition.” This is a slight decline from SFY 2007, when 512 assessments, 451 initial evaluations plus 61 Situational Assessments, were performed. Additional information on PERT can be found at www.wvrc.virginia.gov/pertprogram.htm.

Blind and vision impaired students in 10th through 12th grade and adults who are considering resuming their education may be eligible to participate in a two-week assessment program by the **Department for the Blind and Vision Impaired (DBVI)** that determines their readiness for college, both in terms of academic and adjustment-to-blindness skills. DBVI also offers a four-week transition program for blind high school students that includes the opportunity to participate in community work experiences. Students enrolled in this program receive training in independent-living, cooking, personal management, computer, and orientation and mobility activities to develop their skills in these areas. Due to several years of low enrollment, DBVI no longer offers its one-week computer exploration program for 14- to 21-year-olds. Instead, it now offers Saturday afternoon technology classes three to four times per year that build keyboarding and Braille technology skills, computer literacy and competency with various software applications, and expertise with voice, image-enlargement, or Braille access for computer use.

There are some interesting trends with respect to planning for students in transition, and transition services continue to be an area of concern for students and their parents. Despite significant work at the state level within VDOE, services vary considerably across the state, and families continue to cite challenges in receiving adequate information and the supports needed to ensure success after high school for students seeking employment.

Overall, the December Child Count census of students receiving special education services has declined by 5.5 percent from 175,579 in 2004 to 165,874 in 2009, and the number of students with disabilities within Virginia’s “official” range for transition services, ages 14 to 22, has decreased by 3.6 percent for the same period, from 60,718 to 58,505. The number of children ages two to 13 with disabilities “in the pipeline” for future transition services is also trending down. Despite these declines, however, the number of students who require appropriate transition services in order to be successful in employment or postsecondary education remains high, and the number nearest to school exit, those between the ages of 18 and 22, has actually increased by 21 percent according to the December Child Count, from 8,432 in 2004 to 10,219 in 2009.

In contrast to the overall trends above, the number of students with autism spectrum disorders (ASD) who require transition services has increased substantially, and makes planning for these students particularly challenging. Consistent with the growth in prevalence and

identification of this disability, the number of students ages of 14 to 21 identified as having ASD rose from 1,021 in 2004 to 2,690 in 2009, an increase of 163 percent. Those closest to transition, between the ages of 18 and 21, increased by 153 percent over that same period, from 245 to 621. To meet this need, in 2010, VDOE developed a *Transition and ASD Guidance* document to help students, families, and professionals navigate the transition years, develop and implement quality transition plans, and reduce barriers to post-school success. This guide complements VDOE's overall *ASD Guidance*, *Parents Guide*, and *Models of Best Practice* documents which, at the time of this assessment, were in final editing stage and expected to be released prior to the conclusion of the 2010-2011 school year. Their impact on the success of students with ASD, however, will be dependent on practices of the local school divisions serving these students.

E. Cost and Payment for Education Services

Head Start: Federal funding for Head Start is provided through the Head Start Bureau, Administration on Children, Youth, and Families (ACYF), Administration for Children and Families (ACF) of the Department of Health and Human Services (DHHS). Grants are awarded directly to local public agencies, private organizations, Native American tribes, and school systems for the purpose of operating Head Start programs at the community level. Any local public, private nonprofit, or for-profit agency or organization capable of providing a suitable organizational base is eligible to apply for funding to establish a Head Start program within a specified community, such as a single city or county, a multi-jurisdictional unit within a state, or a Native American reservation.

Nationwide, funding for Head Start was approximately \$7.1 billion in federal fiscal year (FFY) 2009 to provide services for participants both with and without disabilities and increased slightly to \$7.2 billion in FFY 2010. From FFY 2004 to 2008 Virginia's federal allocation for Head Start was in the \$98 million to \$99 million range, with the state receiving \$99,358,903 for FFY 2008. Virginia's allocation increased by 3.1 percent to \$102,461,544 in FFY 2009, partly due to an additional allocation of \$2.1 million in federal stimulus (ARRA) funds specifically targeted for Head Start. Information on Virginia's allocation for FFY 2010 was not available at the time of this assessment.

The vast majority of Head Start appropriations are used to fund the services provided by local Head Start programs; however, a portion is used for training and technical assistance to assist those projects in meeting program performance standards and to maintain and improve the quality of local programs. Some funds are also used for research, demonstration, and evaluation activities. Federal rules further require that localities provide matching funds equal to 20 percent of federal funding, which must come from non-federal sources either in cash or in-kind contributions such as facilities, equipment, or volunteer services.

Virginia Preschool Initiative: Virginia Lottery proceeds specifically designated for this initiative are distributed to local schools and community-based programs by the Virginia

Department of Education (VDOE). The 2010-2012 *Appropriations Act* provided \$67,607,769 for the first year of the biennium and \$68,300,290 in the second year.

Funds are granted based on an allocation formula that takes into account the number of at-risk four-year-olds served in each locality for full-days and half-days. The locality receives the full state share of the \$6,000 total grant amount for each child in a full-day, school-year program. Programs that operate half-days receive state funds on a fractional basis determined by the *prorata* portion of a full-day, school-year program. Local matching funds are required based on a composite index of local ability to pay. At least 75 percent of this match must be in cash with in-kind contributions making up no more than 25 percent. Further details on the funding formula can be found in the relevant item of the *Appropriations Act* at www.doe.virginia.gov/instruction/early_childhood/preschool_initiative/appropriation_act_language.pdf.

Preschool through K-12 Special Education: The following chart summarizes the combination of local, state, and federal resources used by local school divisions in Virginia to fund special education services for students with disabilities in state fiscal years (SFY) 2007 and 2009. Total funding for SFY 2009 increased 9.8 percent over funding in SFY 2007 and has risen approximately 26 percent since SFY 2006 when it was \$1,644,878,544.

VIRGINIA SPECIAL EDUCATION FUNDING BY SOURCE AND YEAR

Funding Source	State Fiscal Year		**SFY 2009	
	*SFY 2007	Amount Share	Amount	Share
Localities	\$1,184,672,203	63%	\$1,307,410,243	63%
State appropriations to localities	432,980,961	23%	519,749,897	25%
Federal payments to state, IDEA Part B		14%		12%
Section 619 (Preschool)	9,125,517		6,709,324	
Section 611 (School-age)	259,641,368		238,145,537	
TOTAL	\$1,886,420,049	100%	\$2,072,014,801	100%

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

**Source: Virginia Department of Education: Financial and Data Service Division, November 2010.

At the time of this assessment, local and state funding amounts for SFY 2010 were not final. Anticipated federal funding for SFY 2010 appears below. This chart shows both IDEA Part B funding and additional grant awards of federal stimulus (ARRA) funds for the year.

VIRGINIA'S FEDERAL SPECIAL EDUCATION FUNDING FOR SFY 2010 (*Preliminary Data*)

Federal Funding Source	IDEA Part B	Stimulus (ARRA)
Section 619 (Preschool)	\$6,626,201	\$9,476,492
Section 611 (School-age)	\$249,605,515	\$281,415,034

Source: Virginia Department of Education: Financial and Data Service Division, November 2010.

Local funding involves interaction between municipal school boards and governing bodies. The school board projects the cost for local education programs, subtracts the anticipated

receipts from state, federal, and other sources, then submits a budget request to the city or town council or county board of supervisors. These local governing bodies then approve what they believe to be appropriate funding to support their localities' schools. This amount may be more or less than the amount requested by the school board.

State funding to local school divisions are determined by their enrollment using a measure referred to as their **average daily membership** (ADM). The state provides each locality with a base amount of funding for each child counted in its 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. The state's share of this cost is determined according to a formula, the locality's composite index of ability to pay.

Under this 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 receiving 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 commingled 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 approved by the Virginia Department of Education (VDOE). Students served in these programs are not counted in a locality's ADM and, therefore, are 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 assessment. 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.

In a 2004 report to the General Assembly, *Options to Address Salary Reimbursement to Localities for Special Education Teachers of the Visually Impaired*, the **Virginia Department for the Blind and Vision Impaired (DBVI)** called attention to the continuing problem of inadequate funding for special education teachers for children with vision impairments:

“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 (VDOE) Standards of Quality (SOQ) funding formula.”

This DBVI report found that, in state fiscal year (SFY) 2004, funding of \$4,090 per full-time-equivalent special education teacher for the vision impaired was 53 percent less than the minimum VDOE allotment for special education teachers in general. The report further noted that state general fund appropriations supporting salaries of teacher for the vision impaired had remained flat at \$509,328 per year; therefore, as the number of teachers has increased, the amount of financial assistance per teacher has continued to decrease. For SFY 2010, the state appropriation remained at this level, and according to DBVI, the situation has steadily deteriorated. The funding per full-time-equivalent special education teacher of the vision impaired has now been reduced to \$3,584, a further 12 percent decline from the SFY 2004 per teacher reimbursement.

The base amount of **federal funding** for both preschool and K-12 special education programs is determined by a formula that considers past federal funding levels, the triennial school-age census, and state poverty levels. In addition, localities may apply annually to the Virginia Department of Education (VDOE) for access to discretionary federal grant funds that promote statewide special education program improvements. These special federal funds, which may not be comingled 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 of services under the joint state and federally funded Medicaid public insurance program and may seek reimbursement of the federal financial participation (FFP) from the Virginia Department of Medical Assistance Services (DMAS) for covered support services provided to eligible students. These services, which must be identified in the students’ Individualized Education Programs (IEPs), include physical, occupational, and speech therapies, nursing, psychiatric, psychological, mental health, and personal care assistance services, medical evaluations, audiology, and transportation. Reimbursements are available for students covered by Medicaid or the Family Access to Medical Insurance Securities (FAMIS) program, which are further described in the Medicaid chapter of this assessment.

As with any other publicly operated school, there is no cost to the student and his or her family for attending the preschool or K-12 programs at the **Virginia School for the Deaf and**

the Blind at Staunton (VSDB-Staunton). Costs for student attendance are paid by the state which creates a potential incentive for localities to send students with high needs out of district rather than have to pay for services provided by a private school.

The following chart shows the most recent audited budget amounts and actual expenditures for VDSB-Staunton by funding source for state fiscal year (SFY) 2009. An increase of more than 50 percent occurred from the school's SFY 2008 budget of \$8,183,683 due to the closing of the Hampton campus and consolidation of its programs with those at Staunton. Indicative of this consolidation, the number of staff positions at VSDB-Staunton grew from 143 during the 2006-2008 biennium to 190 for the 2008-2010 biennium. The school's *Strategic Plan* reports that the budget declined slightly to \$10,803,977 for SFY 2010 and will decline again to \$10,253,198 for each year of the 2010-2012 biennium.

SFY 2009 AUDITED BUDGET AND EXPENDITURES FOR VSDB-STAUTON

<u>Source</u>	<u>Original Budget</u>	<u>Adjusted Budget</u>	<u>Actual Expenses</u>
State General Funds	\$11,024,926	\$11,872,688	\$10,919,624
Special Funds	554,647	563,147	21,016
Federal Funds	787,539	887,539	777,938
TOTAL	\$12,367,112	\$13,323,374	\$11,718,578

Source: Department of Education Direct Aid to Public Education and Virginia Schools for the Deaf and Blind: Report on Audit for the Year Ended June 30, 2009. www.apa.state.va.us/reports/DOE09.pdf.

In SFY 2007, before consolidation, the Staunton campus served 116 students, of whom 91 (78 percent) were residential, at an average per pupil cost of \$74,134. While the school's *Strategic Plan* lists 120 students served for the 2008-2010 biennium, the SFY 2009 audit reports service to 127 students, of whom 99 (78 percent) were residential, as of May 31, 2009, yielding a per student cost of \$92,272. For the 2010-2012 biennium, the *Strategic Plan* reports a slight increase of 122 students served, which equates to a per student cost of \$84,402 for SFY 2010. This increase in per student cost at the Staunton campus following the closing of the Hampton school was expected since that school served students with multiple disabilities and it was anticipated that those transferring to Staunton would need more intensive services.

The VSDB Foundation administers gifts, grants, and bequests to the school to support its existing and future enterprises. The State Board of Education acts as its governing board and approves its budget. The market value of the Foundation's investment portfolio declined from \$3,072,434 on December 31, 2006 to \$2,466,245 on December 31, 2008, losing \$944,304 over the course of that year. The Board's disbursements from the fund to the Staunton school for that calendar year came to \$58,463.

F. Monitoring and Evaluation of Education Services

Head Start: Each local 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:

- 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;
- Designate a disabilities coordinator who is responsible for preparation and implementation of the plan;
- Contain procedures for timely screening of participating children and for subsequent referrals to the local education agency (LEA) for further evaluation as indicated; and
- 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 programs must demonstrate that children are making progress toward legislatively mandated child outcomes. The **Phonological Awareness Literacy Screening (PALS)** is used to measure progress on literacy fundamentals and assess readiness for kindergarten. Several years ago, as part of outcome measurement, Head Start began implementation of the **Child Outcomes Framework**, which applies to children with and without disabilities, and focuses on the school readiness indicators described earlier in this chapter. According to the 2008-2009 Virginia Head Start Association *Annual Report*, the Framework is used to help programs select research-based early childhood curricula as well as the best tools for assessing child progress. Local programs staff 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.

Comprehensive training and technical assistance (TA) is provided to local grantees throughout the Commonwealth to ensure that they are in compliance with federal Head Start regulations. As of August 2010, the Office of Head Start reports having instituted a training and technical assistance system focusing on correction of deficiencies, school readiness, and training/career development needs of Head Start staff. The system consists of:

- Six National Resource Centers that showcase evidence-based practices in content areas,
- State Training and Technical Assistance (T/TA) Centers that work with the National Resource Centers to target needs of individual states and grantees,
- Increased local grantee funding to support grantees in achieving their locally determined T/TA goals, and

- Virginia TA Network staff consisting of three early childhood education specialists who work with grantees and delegates on school readiness and training/career development needs of Head Start/Early Head Start staff and grantee specialists who work with grantees and delegates on correction of deficiencies.

Data on participation by children and families and the outcomes of specific activities must be provided to the ACF annually. According to Head Start program officials, since the program promotes inclusive practices, outcomes for children with disabilities are not reported separately from those of children without disabilities.

Preschool through K-12 Special Education: By statute and regulations, 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 of 2004 (IDEA)* in the Commonwealth. VDOE's **Office of Federal Performance Monitoring (OFPM)** oversees special education programs and services in school divisions; state-operated programs, which include the Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton), hospitals, and juvenile detention and correctional facilities; private day schools; and children's residential facilities.

To receive Part B funding under IDEA, all local education agencies (LEAs) and state-operated programs, such as VSDB-Staunton, must have in effect and must demonstrate adherence to policies and procedures that are both consistent with federal and state regulations and are consistent with plans approved by VDOE. In the past, changes to policies and procedures had to be submitted to VDOE for approval after being adopted by local school boards or by the state-operated programs' administrators. In 2006, federal regulations implementing IDEA 2004 eliminated the requirement that states submit policies and procedures to the **U.S. Department of Education's Office of Special Education Programs (OSEP)** as part of the annual certification process. As a result, VDOE deleted its requirements for local policies and procedures to be submitted for VDOE approval through the annual report process, stating that they did so to be consistent with federal action and to provide flexibility to the LEAs. According to VDOE, no negative comments were provided on this change during the state regulations revision process. In 2009, VDOE issued a *Guidance Document for Development of Local Policies and Procedures Required for Implementation of Special Regulations in Virginia's Public Schools*. This document, approved by the Attorney General's Office, provides information about the specific policy and procedure requirements to be in compliance with federal and state implementing regulations of IDEA.

In further compliance with the new federal regulations following passage of IDEA 2004, VDOE monitoring and enforcement activities now focus on: (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 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 OSEP at the federal level and measures 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.

IDEA requires the state to submit an *Annual Performance Report (APR)* to OSEP detailing the progress it has made each year in meeting performance targets set forth in its SPP. OSEP also completes periodic onsite compliance reviews. After review of the APR, OSEP issues an annual "determination letter" that documents the state's overall progress in meeting the requirements of IDEA. This annual report card is used by the state to help improve education services. OSEP's last routine verification visit to Virginia was in 2009. Its last determination letter was dated January 15, 2010, and VDOE provided its response on March 11, 2010. Data and findings from VDOE's reports to OSEP and their site visits to Virginia are reported later in this section.

Since the revision of federal IDEA regulations in 2006, the state's oversight system has shifted from predominantly monitoring compliance with procedural requirements to focusing on educational benefit and student results. School divisions self-report on APR compliance indicators to VDOE's Office of Federal Performance Monitoring (OFPM), which then works with them to develop corrective action plans that address areas of noncompliance and verifies that those corrections are made within one year. In addition to providing resources and assistance to all school divisions, OFPM conducts onsite monitoring visits to between 22 and 25 school divisions per year based on a six year monitoring schedule. Adjustments to the annual selection of schools in each of the eight Superintendent's regions are made to include school divisions that fail to demonstrate substantial compliance on APR indicators. The onsite reviews determine causes of noncompliance and provide targeted assistance to school divisions with the greatest need.

The Part B *Annual Performance Report for 2008-2009*, the latest available, and the 2009 and 2010 meeting minutes for the **State Special Education Advisory Committee (SSEAC)** describe ongoing activities by VDOE to improve services and outcomes benefiting students with disabilities. Those activities include, but are not limited to:

- Improvement of monitoring processes to ensure correction of noncompliance findings within local school divisions.

- Extensive provision of training and technical assistance to school divisions statewide.
- Creation of the VDOE Office of Instructional Support and Related Services to provide state level leadership to students with low incidence disabilities and those who need significant support. This includes increased focus on meeting the needs of students with an autism spectrum disorder (ASD) through the addition of an ASD program specialist and support for a variety of initiatives relating to the providing effective services. Those initiatives include, but not limited to, creation of *Guidelines for Supporting Students with Autism*, financial and staff support to the Virginia Autism Council, and work with the Joint Legislative and Audit Review Commission on its comprehensive report on services for individuals with ASDs.
- Establishment, in 2010, of the Autism Center for Excellence, in collaboration with Virginia Commonwealth University's Rehabilitation Research and Training Center (RRTC) and School of Education. A key initiative of this center will be to work with selected school divisions to improve their capacity to provide high quality programs through job embedded professional development, an innovative support model that was first developed and implemented by Commonwealth Autism Services. Through this model, a certified behavioral analysis onsite will provide training and coaching to school staff at all levels.
- Expansion of the Transition Outcomes Project into a statewide model.
- Continued focus on self-determination for students with disabilities through the "I'm Determined" project that provides direct instruction, models, and opportunities to practice skills associated with self-determined behavior starting in elementary school and continuing throughout the student's school career.
- Continued work with school superintendents to facilitate a smooth transition from Part C early intervention to Part B special education services.
- Continued work with local school divisions on the implementation of Response to Intervention (RTI) at 15 pilot schools with positive results cited, including fewer referrals to special education and fewer behavior incidents.
- Implementation of new teacher preparation programs, including the Aspiring Special Education Leaders Program and the Vision Impairment Consortium, the latter of which was initiated with Old Dominion University, George Mason University, Norfolk State University, James Madison University, and Radford University.
- Modification of the Orientation Academy for New Special Education Administrators with events held throughout the year rather than at a single event.

As noted earlier in the access and delivery section, parents who are unable to resolve issues with the provision of special education services for their child by local school divisions through less formal means may file a complaint, request mediation, or file a due process request. VDOE's **Office of Dispute Resolution and Administrative Services** produces an *Annual Report on the Dispute Resolution Systems and Administrative Services (ARDRSAS)* that

identifies and addresses systemic compliance issues affecting local school divisions. That report (www.doe.virginia.gov/special_ed/resolving_disputes/reports/annual_report_dispute_resolutions.pdf) provides details regarding the work of the office along with important explanations and footnotes to the various statistics that are important to understanding the full complexities of the dispute resolution system. In brief, the responsibilities of the office include:

- 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.
- 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 to the provision of a free appropriate public education (FAPE) for the child.
- Coordinating revision of Virginia's special education regulations.
- Coordinating the Annual Plan process for local school divisions and state-operated programs.
- Coordinating IDEA related training initiatives and responding to inquiries regarding the application of federal and state regulations governing special education.

The *Parents' Guide to Special Education Dispute Resolution*, which was described as under development by the dispute resolution office in the 2008 edition of this assessment, has now been completed. This publication (www.doe.virginia.gov/special_ed/resolving_disputes/parents_guide_dispute_resolution.pdf) helps parents navigate the intricacies of the various dispute resolution processes, especially when they are representing their child's interests without the assistance of legal counsel.

The chart below shows the number of complaints, requests for mediation, and due process hearing requests filed by parents for each school year since 2004-2005.

DISPUTE RESOLUTION FILINGS BY YEAR

School Year	Complaints	Mediation	Due Process
2004-2005	167	133	107
2005-2006	132	125	98
2006-2007	115	129	69
2007-2008	138	138	87
2008-2009	121	105	81
2009-2010	132	119	79

Source: Virginia Department of Education: *Annual Reports of the Dispute Resolution Systems and Administrative Services*, 2005, 2006, 2007, 2008, 2009, 2010.

Overall, there has been a decline in complaints since 2004-2005, with the lowest number in 2006-2007; however, there has been much variation from year to year. The most recent data available, for school year 2009-2010, shows a nine percent increase over the previous year, to 132 from 121.

Of the complaints filed during 2009-2010, 18 of 132 were withdrawn and 11 were resolved through mediation or a settlement agreement. For the remainder, as of June 30, 2010, 78 administrative decisions were issued addressing 251 issues, and 23 cases were still pending but had not exceeded the 60-day timeline. In 171 of 251 issues addressed, the local school divisions were found to be in compliance, while 80 were found to be noncompliant. Decisions were appealed in 31 of 78 decisions, and findings were affirmed in 22 cases, remanded in one case, and reversed in one case. A split decision was rendered in three cases and one remained pending. Appeals were denied in three cases due to untimely filing.

As in previous years, the highest rate of noncompliance findings was for Individualized Education Plan (IEP) issues. Of 125 IEP issues (out of 251 total issues noted above), 28 percent regarded noncompliance. The next highest issues, although for smaller numbers, involved procedural safeguards such as prior written notice and provision of IEP progress reports.

VDOE received 13 percent more mediation requests in 2009-2010 than in 2008-2009, 119 versus 105, but that number was still lower than the highest for the period in 2007-2008. An increase in requests for mediation is a positive development, since this is a less adversarial way in which to resolve disagreements that has been highly promoted and encouraged by VDOE. By September 2010, when the 2009-2010 ARDRSAS was published, 56 of the 119 requests received that year had been resolved, 20 remained unresolved, 22 were withdrawn, and 21 were still pending. The percentage of cases resolved at the time of the ARDRSAS report declined from 70 percent, 74 of 105 cases for 2008-2009, to 47 percent for 2009-2010. In 2009-2010, 20 of the 119 mediation requests (17 percent) emanated from a due process hearing request, compared with 24 of 105 (23 percent) for the previous year. Nine of the cases emanating from a due process request in 2009-2010 were resolved through the mediation process, seven were unresolved, two were withdrawn, and two were still pending at the time of this assessment.

Mediation requests for 2009-2010 addressed 225 issues, up from 208 in the previous year. The issues addressed have remained consistent with the exception of transportation, which still represents a small number of issues brought forward but has grown from one request in 2005-2006 to ten in 2009-2010. They include the type and sufficiency of IEP services, placement, goals, staffing, evaluation and disability, discipline, and financial responsibility for programs selected by parents.

The number of due process hearing requests reported by ARDRSAS has also shown a downward trend for the past six years. Of the 79 hearing requests in 2009-2010, 60 (76 percent) were dismissed or withdrawn, 12 (15 percent) had a decision rendered after a hearing, and seven (nine percent) were still pending as of June 30, 2010. Outcome statistics for the previous school year were very similar. Regarding the cases dismissed or withdrawn, the ARDRSAS explains

that this occurs as a result of a mediation or settlement agreement or a request for withdrawal. Cases can also be closed if the hearing officer dismisses the case for other reasons, such as the expiration of the statute of limitations, failure to present proper notice, etc. In 2009-2010, nine cases were dismissed by their hearing officer.

The number and proportion of decisions rendered in favor of the local education agency (LEA) has been consistently, significantly higher than those rendered in favor of parents. In 2009-2010, of the 12 decisions noted above, only one was in favor of the parent, six were in favor of the LEA, and five concluded with a split decision. In 2008-2009, one of nine decisions was rendered in favor of the parent, and eight were decided in favor of the LEA, with no split decisions. For the last four school years (2006-2007 to 2009-2010), the highest number of decisions, 16, were rendered in 2007-2008, and again, only one was decided in favor of the parent.

Due process hearings held in 2009-2010 addressed 38 issues. IEPs, including placement and services, were the subject of 17. Five related to due process, focusing on tuition reimbursement. Four concerned discipline, and three referenced eligibility. Nine others addressed areas such as extended school year, transportation, and compensatory education.

The addition of resolution sessions to the due process hearing system was mandated in the 2004 amendment and reenactment of the federal *Individuals with Disabilities Education Improvement Act* (IDEA). School divisions must schedule a resolution session with parents to provide both parties with an opportunity to come to agreement over an issue. Both parties can waive resolution, opt for mediation, or chose to move forward with due process.

The first year of implementation of the IDEA 2004 mandate, 2005-2006, produced the highest proportion, 61 percent, of resolution sessions per due process hearings initiated. Since then, the proportion has remained stable at 56 to 57 percent. During the 2009-2010 school year, 50 of 79 due process hearings initiated (56 percent) led to resolution sessions. The first year of resolution sessions also produced the lowest proportion in which an agreement was reached, only 16 of 59 sessions (27 percent) were able to resolve differences. For 2009-2010, agreement was reached in 38 percent of resolution sessions.

The **State Special Education Advisory Committee** (State SEAC or simply SSEAC) serves as an advisor to the State Board of Education and provides additional oversight for the Commonwealth's special education system. Membership is comprised of stakeholders defined by the federal *Individuals with Disabilities Education Improvement Act* of 2004 (IDEA) and *Regulations Governing Special Education in Virginia* (8 VAC 20-80-30). The SSEAC includes parents, individuals with disabilities, advocates, and representatives of public and private schools and postsecondary education, 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.

In its 2007-2008 and 2008-2009 annual reports to the State Board of Education, the latest available, the SSEAC identified work on a number of issues, including seclusion and restraint in public schools, recruiting individuals to work in special education, greater involvement of constituents in the SSEAC, development of undergraduate special education licensure programs, training for school administrators, the Virginia Modified Achievement Standard Test, access to the general curriculum, youth self-determination, accessible instructional materials, and secondary transition. Unlike previous years' reports, those for 2007-2008 and 2008-2009 included few specific recommendations to the Board of Education for system improvements.

Although not mandated by the IDEA, state regulations (8 VAC 20-80-90) require that local education agencies (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 SEAC advises the State Board of Education. State-operated programs (SOPs) do not establish LACs/SEACs but in collaboration with an assigned subcommittee of the State SEAC, conduct annual reviews of their policies and procedures.

LACs/SEACs vary greatly in their operational processes and effectiveness. A change to the state special education regulations in 2009 that added a teacher to LAC/SEAC membership requirements was controversial, with most school divisions in support and many parents and advocates opposed. Public comment submitted in opposition by the State SEAC, and noted in their 2008-2009 annual report, stated that: "If a teacher is permitted to be a voting member on LACs, in smaller LACs there may be undue influence by people who are paid by the system."

As noted above, VDOE's Office of Federal Performance Monitoring (OFPM) also monitors education programs in **private residential facilities** under the applicable federal and state requirements regarding the provision of special education services. Previously, private special education day schools were 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 partnered with the state Departments of Behavioral Health and Developmental Services, Social Services, and Juvenile Justice to ensure implementation of the *Standards for Interdepartmental Regulation of Children's Residential Facilities (CORE)* regulations. This process has changed. The CORE regulations were repealed in favor of agency-specific regulations for targeted populations, and VDOE now monitors and issues a license to operate separate from other state licensing agencies.

This change resulted from the 2008 General Assembly's amendment, reenactment, and addition of sections to the *Code of Virginia* (22.1-323.2, 37.2-408, and 66.24, plus 37.2-408.1, respectively) relating to the regulation of group homes and residential facilities for children. The changes eliminated the *Interdepartmental Regulations* noted above and required the Departments of Behavioral Health and Developmental Services (under its former name, the Department of Mental Health, Mental Retardation and Substance Abuse Services, DMHMRSAS), Department of Social Services, and the Department of Juvenile Justice to regulate and license children's residential facilities. The bill required the Board of Education and VDOE to continue their oversight responsibilities for the educational programs at children's residential facilities.

According to information provided by VDOE, the department continues to coordinate with other licensing agencies to ensure protection and appropriate treatment and programming for children receiving out-of-home care. At the time of this assessment, new regulations for the operation of private schools for students with disabilities were under development that will provide a single set of regulations for both private day and residential schools, with a goal of greater accountability for educational programs in these settings.

As noted earlier, on July 1, 2009, the **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)** became an executive branch agency with a Board of Visitors in charge of school supervision, appointment and removal of officers and faculty, and certain funding initiatives. The Board of Visitors consists of 11 members, including four legislative members and seven non-legislative, citizen members. One of the non-legislative members must be a parent from the eastern region of the Commonwealth, one must be a parent from the western region, and one must be a representative of the Virginia School for the Deaf and the Blind Alumni Association. The non-legislative representatives are appointed by the Governor. A VDOE staff member, appointed by the Superintendent of Public Instruction, provides the Board of Visitors with technical assistance regarding instruction, federal and state special education requirements, and school accreditation.

Prior to their repeal described above, VSDB-Staunton was responsible for complying with the CORE regulations. The VSDB-Staunton residential program is now regulated by the Virginia Department of Behavioral Health and Developmental Services (DBHDS), while its education program remains under Virginia Department of Education (VDOE) oversight. Overall responsibility for ensuring that students are appropriately served, in compliance with state and federal regulations, rests with the school divisions that placed them at VSDB-Staunton.

Staff at VSDB-Staunton who teach students are licensed by VDOE or another licensing agency appropriate to their service delivery area and, as in public school divisions, must meet the standard of "highly qualified" under the federal *No Child Left Behind Act* of 2001. Additional information on that federal statute appears below.

According to the VSDB-Staunton's 2010-2012 *Strategic Plan*, school staff must be highly trained in the fields of deafness, blindness, and multiple disabilities. The plan notes that recruitment and retention of highly qualified staff is a continual issue due to low salaries, the

specialized qualifications required to work at the school, and heavy workloads caused by staffing shortages. The plan also reports inadequate staff levels in outreach, maintenance, housekeeping, security, and interpreters. Providing sufficient training in American Sign Language (ASL) is a further challenge. Because about 94 percent of VSDB-Staunton’s budget is spent on salaries, there are no funds available from other cost areas for pay increases that would encourage staff to remain at the school.

Accountability for the **Department for the Blind and Vision Impaired (DBVI) Educational Services** described earlier is the responsibility of the DBVI Educational Services Program Director, who is assisted by 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.

In addition to the federal monitoring under the *Individuals with Disabilities Education Improvement Act* of 2004 (IDEA) described at the start of this section, Virginia has significant accountability and reporting requirements under the *No Child Left Behind Act of 2001 (NCLB)*. NCLB requires schools to set annual benchmarks for achievement in reading and math leading to 100 percent proficiency by 2014. Schools, school divisions, and states that meet or exceed their annual benchmarks are rated as having made “adequate yearly progress” (AYP). At least 95 percent of all students must be tested, including 95 percent of students in the specific subgroups of white, black, Hispanic, students with disabilities, students with limited English proficiency, and students who are economically disadvantaged. Annual ratings are based on achievement during the previous academic year or combined achievement from the most recent years. Virginia did not make AYP in the 2009-2010 school year.

The annual *State School Report Card* provides important information on the performance of Virginia schools with respect to AYP. The report card disaggregates data by population, including students with disabilities, and includes state and school division level reports on the key indicators required under NCLB. The following table lists some key indicators of interest from the Commonwealth’s August 2010 *Report Card*.

ACADEMIC ACHIEVEMENT IN STATE ASSESSMENT TESTS, PASS RATES

ENGLISH

School Year	2006-2007	2007-2008	2008-2009	2009-2010
All Students	85%	87%	89%	89%
Students with disabilities	64%	67%	73%	73%

MATHEMATICS

School Year	2006-2007	2007-2008	2008-2009	2009-2010
All Students	85%	84%	86%	88%
Students with disabilities	62%	65%	71%	73%

Source: Virginia Department of Education: *School, School Division and State Report Card*, August 2010. <https://p1pe.doe.virginia.gov/reportcard/report.do?division=All&schoolName=Alla>.

As this table shows, performance for all students, which includes students with disabilities, has been relatively stable for the past several years but continues to be significantly higher than for the subset of just students with disabilities. The performance of students with disabilities is also the lowest among the subsets tracked, including those who are economically disadvantaged or who have limited English proficiency. Performance of students with disabilities has improved, however, over the past four years. Pass rates in English and mathematics tests rose by nine and 11 percentage points, respectively, from 2006 to 2010. The achievement gap between all students and students with disabilities, which was 21 percentage points for English and 23 for mathematics in 2006, has been reduced to 16 and 15 percentage points, respectively, in 2010.

Each year, VDOE also publishes the *Special Education Performance Report* that reports performance of students with disabilities on both OSEP and NCLB indicators. Data from the latest report published in June 2010 appears below. Not all indicators were required to be reported (N/R) for both years shown.

SPECIAL EDUCATION PERFORMANCE REPORT, OSEP AND NCLB INDICATORS

School Year	2007-2008		2008-2009	
	Target	Performance	Target	Performance
Graduation Rate:				
Regular Diploma	45%	44%	N/R	N/R
Drop Out Rates for Students				
with IEPs (grades 7-12)	1.89%	2.4%	N/R	N/R
Long-term Suspensions	12%	18%	N/R	N/R
Expulsions	8%	7.6%	N/R	N/R
Disproportionality in Special				
Education and Related Services	0%	0%	0%	0%
Disproportionality in Specific				
Disability Areas	0%	0%	0%	0%
Eligibility Timeline	100%	96.8%	100%	97.5%
Part C to Part B Transition	100%	97%	100%	99%
Secondary IEP Goals and				
Transition Services on IEP	100%	83%	N/R	N/R
Post-Secondary Outcomes:				
Employed or in School Within a				
Year of Leaving High School	60%	75.5%	N/R	N/R

Source: Virginia Department of Education: *Special Education Performance Report*, June 2010.
www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/index.shtml.

Of key interest is the progress made with respect to disproportionate representation of minority students in special education. As reported in earlier editions of this assessment, baseline data for 2005-2006 showed that nine school divisions had significant disproportionality as a result of inappropriate identification of racial and ethnic groups in specific disability

categories. Some level of inappropriate identification in at least one of six designated disability categories was indicated for an additional 12 school divisions. These findings were corrected within one year of identification, and since that time, the indicator targets have been met.

The percentage of students with an IEP who graduated high school with a regular (standard or advanced) diploma within four years has remained stable. In 2006-2007, the target of 43 percent for this indicator was achieved. For 2007-2008, the target was raised to 45 percent, and while that target was not reached, performance did increase slightly to 44 percent, just missing the target. For students with disabilities, however, this indicator lags well behind the performance for all students, with and without disabilities, of whom 77 percent receive a regular diploma within four years. Students with disabilities had the lowest rate of obtaining a diploma within four years of all subgroups. The next closest was students with limited English proficiency of whom 56 obtained a regular diploma within four years. In 2007-2008, the drop-out rate for students with disabilities rose slightly to 2.4 percent from 2.3 percent the previous year. The need for more work in both of these areas is clearly indicated.

The most recent targets and performances for two other important indicators with multiple sub-indicators are listed below.

INDICATOR 3: PARTICIPATION AND PERFORMANCE IN STATEWIDE ASSESSMENTS

School Year	2007-2008		2008-2009	
	Target	Performance	Target	Performance
Divisions Meeting Adequate Yearly Progress (AYP)* for Students with Disabilities	66%	59.8%	67%	71.9%
Students with Disabilities Participation Rate for English/Reading	95%	99%	95%	99%
Students with Disabilities Participation Rate for Math	95%	99%	95%	99%
Students with Disabilities Proficiency Rate for English/Reading	77%	67%	81%	72%
Students with Disabilities Proficiency Rate for Math	75%	65%	79%	71%

*Adequate Yearly Progress (AYP) is a performance indicator under the federal *No Child Left Behind Act* that applies to all students.

Source: Virginia Department of Education: *Special Education Performance Report*, June 2010.
www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/index.shtml

In 2007-2008, only 59.8 percent of school divisions achieved Adequate Yearly Progress (AYP), and the Commonwealth failed to reach its target of 66 percent, based on the performance of the previous year. For 2008-2009, however, the state exceeded its target of 67 percent, reaching 71.9 percent, reflecting a 20 percent improvement over the previous year.

Participation rates for English/Reading and Math remained stable at 99 percent from the 2006-2007 to the 2008-2009 school years, while proficiency rates showed steady progress despite missing their targets. English/Reading proficiency improved from 62 percent in 2006-2007 to 67 percent in 2007-2008 to 72 percent in 2008-2009. Math proficiency improved from 58 percent to 65 percent to 71 percent over the same period.

INDICATOR 5: LEAST RESTRICTIVE ENVIRONMENT FOR SCHOOL-AGE CHILDREN*

School Year	2007-2008		2008-2009	
	Target	Performance	Target	Performance
Students Spend 80% or More Time in the Regular Classroom	62%	57%	64%	56%
Students Spend 40% or Less Time in Regular Classroom	11%	16%	10%	16%
Students Served in Separate Public or Private Residential, Home-Based, or Hospital Facility	1%	3.5%	<1%	3.6%

*Reporting on time spent in the least restrictive environment by preschoolers receiving Part B services was not required.

Source: Virginia Department of Education: *Special Education Performance Report*, June 2010.
www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/index.shtml.

Virginia did not meet its targets for educating children with disabilities in the least restrictive environment, and performance actually decreased from 2007-2008 to 2008-2009. While the percentage of students spending 40 percent of their time in the regular classroom remained constant at 16 percent for both years, the percentage spending 80 percent or more of their time in the regular classroom declined slightly from 57 to 56 percent. The percentage served in separate environments also grew slightly from 3.5 percent in 2007-2008 to 3.6 percent in 2008-2009.

As noted at the beginning of this section on evaluation and monitoring of K-12 special education services, the federal **Office of Special Education Programs (OSEP)** reviews *Annual Performance Reports (APRs)* provided by the Virginia Department of Education (VDOE) and conducts periodic onsite verification visits to monitor the state's provision of services under Part B of the *Individuals with Disabilities Education Act (IDEA)*. Following its review of Virginia's APRs, OSEP can find that the state "meets requirements," "needs assistance," "needs intervention," or "needs substantial intervention." These are the same standards used by VDOE in evaluating the performance of Virginia's school divisions. OSEP found that Virginia met requirements for 2005-2006 and 2006-2007 and that it needed assistance in 2008.

OSEP's 2005 verification visit was reported in the 2008 edition of this assessment. In its May 2005 determination letter to VDOE following that visit, OSEP expressed concern that data collection by VDOE for monitoring and ensuring correction of school district compliance with IDEA was inadequate, hearing requests were not being resolved in a timely manner, and youth

with disabilities receiving special education and related services in juvenile detention facilities were excluded from the state's Part B child counts. Subsequently, those issues were resolved.

The most recent verification visit by OSEP occurred in October 2009. During that visit, they (1) analyzed the components of the state's general supervision, data, and fiscal systems to determine the extent to which they were effective in ensuring compliance and improving performance and (2) reviewed the accuracy of data submitted for selected performance indicators in the APR for the 2007-2008 school year.

In the findings from that verification visit, OSEP identified noncompliance by the state in the following areas: (1) use of percentage thresholds for identifying noncompliance, (2) the practice of finding noncompliance to be corrected without determining whether a school division was correctly implementing the specific regulatory requirements, (3) failure to consider underrepresentation when determining whether school divisions have disproportionate representation, (4) definition of significant disproportionality, and (5) the practice of calculating state-level maintenance of effort based solely upon state educational agency expenditures.

Following receipt of OSEP's "Letter of Findings," VDOE noted that some of these findings were based on the 2007-2008 school year and that corrections made in 2008-2009, prior to the verification visit, had not been recognized. As required, VDOE responded to OSEP's letter with a corrective action plan, which VDOE reports has been implemented.

Virginia's 2009-2010 APR will not be available until after the publication of this assessment. The most recent OSEP monitoring priorities, associated key federal indicators, and explanations of their progress or slippage are detailed in Virginia's 2007-2008 and 2008-2009 APRs (www.doe.virginia.gov/special_ed/reports_plans_stats/annual_performance_reports/2007-08.pdf, www.doe.virginia.gov/special_ed/reports_plans_stats/annual_performance_reports/2008-09.pdf).

G. Education Services Sources Referenced in This Chapter

Links to websites and online documents reflect their Internet addresses in March 2011. Some documents retrieved and utilized do not have a date of publication.

Websites:

U.S. Department of Health and Human Services:

Administration for Children and Families:

www.acf.hhs.gov.

Office of Head Start:

www.acf.hhs.gov/programs/ohs/

Virginia Department for the Blind and Vision Impaired:

www.vdbvi.org

Virginia Department of Education:

www.doe.virginia.gov

Dispute Resolution:

www.doe.virginia.gov/special_ed/resolving_disputes/index.shtml

Early Childhood.

www.doe.virginia.gov/special_ed/early_childhood/index.shtml

Grants and Funding.

www.doe.virginia.gov/special_ed/grants_funding/index.shtml

I'm Determined Project:

www.imdetermined.org

Monitoring:

www.doe.virginia.gov/special_ed/monitoring/index.shtml

Regulations, Laws and Policies:

www.doe.virginia.gov/special_ed/regulations/index.shtml

Secondary Transition.

www.doe.virginia.gov/special_ed/transition_svcs/index.shtml

Special Education:

www.doe.virginia.gov/special_ed/index.shtml

Special Education Child Count:

www.doe.virginia.gov/special_ed/reports_plans_stats/child_count/index.shtml

State Special Education Advisory Committee:

www.doe.virginia.gov/boe/committees_advisory/special_ed/index.shtml

Statistics and Reports:

www.doe.virginia.gov/special_ed/reports_plans_stats/index.shtml

Testing and Standards of Learning:

www.doe.virginia.gov/testing/index.shtml

Virginia Preschool Initiative Enrollment:

<http://vaperforms.virginia.gov/agencylevel/src/displaymsr.cfm?measureid=20100000.001.001>

Virginia Department of Rehabilitative Services:

www.vadrs.org

Woodrow Wilson Rehabilitation Center PERT Program:

<http://wwrc.virginia.gov/pertprogram.htm>

Virginia Head Start Association:

www.headstartva.org

Virginia School for the Deaf and the Blind at Staunton:

<http://vsdb.k12.va.us/>

Documents:

Administration for Children and Families, Administration on Children, Youth and Families.

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- United States Code, 42 USC 9801 et seq.* *Improving Head Start for School Readiness Act of 2007*. Retrieved from: <http://eclkc.ohs.acf.hhs.gov/hslc/Head%20Start%20Program/Program%20Design%20and%20Management/Head%20Start%20Requirements/Head%20Start%20Act/headstartact.html>.
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