

# A Report to the Superintendent of Public Instruction of the Commonwealth of Virginia

## **A SURVEY OF K-12 SPECIAL EDUCATION IN THE COMMONWEALTH OF VIRGINIA AND RECOMMENDATIONS TO IMPROVE SPECIAL EDUCATION IN THE STATE**

Prepared by:  
Robert Pasternack, PhD  
Sam Howarth, PhD

September 29, 2023

REVISED 10-4-2023

TABLE OF CONTENTS

Section 1: Introduction and Methodology .....1

Section 2: Findings .....2

    Parents/Advocates .....2

- Parent Concerns Regarding their Rights under Federal Law (IDEA) and VDOE Regulations
- Parent Concerns Regarding Transparency of Governmental Actions to Comply with Laws & Regulations
- Parent Concerns Regarding Parent-Educator Collaboration
- Parent Concerns About IEPs
- Parent Concerns About Professional Learning
- Parent Concerns About Post-Secondary Opportunities for their Children
- Parent Concerns About Response to Intervention and Managing Behavior Exhibited by their Children.

    Local Division Directors .....5

- Division Director Concerns About Monitoring
- Division Director Concerns About Dispute Resolution and Advocacy
- Division Director Concerns About IEPs
- Division Director Concerns About Training and Technical Assistance
- Division Director Concerns About Licensure and Personnel
- Other Expressed by Division Directors

Superintendents .....	7
▪ Superintendent Concerns About Monitoring and Dispute Resolution	
▪ Superintendent Concerns About Graduation and Assessment	
▪ Superintendent Concerns About Funding and Training	
Section 3: Recommendations for Immediate Implementation.....	11
Monitoring.....	10
Dispute Resolution .....	11
Independent Educational Evaluations .....	12
The Virginia IEP .....	12
Advocacy.....	12
Teachers and Related Service Personnel.....	13
Behavioral Health.....	13
Data .....	13
Response to Intervention.....	13
Training and Technical Assistance.....	14
Section 4: Recommendations that Should be Considered and that are Still Important for Transformational Change	
The High School Diploma and Transition .....	14
Funding.....	14
Educator Licensure.....	15
Other .....	15
Section 5: Recommendations to be Considered for Some Point in the Future.....	16.
Monitoring.....	16
Dispute Resolution .....	16
Independent Educational Evaluations .....	17
Teacher and Related Service Personnel Shortage .....	17
Virginia IEP.....	17
Advocacy.....	18
Data .....	18

Response to Intervention .....	18
Training and Technical Assistance.....	19
High School Diploma and Transition .....	20
Other .....	20

## **INTRODUCTION AND METHODOLOGY**

The authors of this report were asked by Dr. Lisa Coons, Superintendent of Public Instruction for the Commonwealth of Virginia, to conduct a survey/evaluation of the K-12 special education system in the Commonwealth and to provide the Virginia Department of Education (VDOE) with informed and actionable recommendations designed to improve special education in the state. Dr. Coons asked us to focus on K-12 special education activities outside of the VDOE.

The scope of work for this project focused on convening meetings with three groups of stakeholders. These key constituencies were: 1) parents and advocates, 2) Division Directors of Special Education and 3) Superintendents (though only a very few Superintendents agreed to participate). We also spoke with TTAC representatives, and a few others involved in special education in the Commonwealth. For example, we met with the authors of the Joint Legislative Audit and Review Commission's (JLARC) Report on Special Education which was published in 2020 and was based on a year of research conducted by a team of JLARC staff.

This report is to be provided to Dr. Coons by September 30, 2023.

Data collected and gleaned from discussions with these stakeholders yielded several key findings. The findings that emerged are outlined in Section 2 of this report. Based on these findings, and additional conversations with additional stakeholders and non-stakeholders, we developed our Actionable Recommendations. (Section 3).

The final step in this study was to confer with the State Superintendent regarding the feasibility of immediate implementation of the most critical recommendations. Subsequently, the report was prepared with the practicality of implementation of improving outcomes and results for SWDs and their families.

### **A Note on the Limitations of this Report:**

We were contracted with the VDOE to conduct this survey and issue this report in less than six weeks. Given the short duration of this project and the scope of work, we were not able to conduct the deepest analysis of all issues impacting the provision of special education to the over 180,000 students with disabilities (SWDs) and their families in the Commonwealth. Even with this limitation, we are confident that our findings and recommendations are informed, accurate, and actionable.

**A Note on the Audience for this Report:**

The audience for this report is Dr. Coons and her staff at the VDOE. As such the recommendations in this report are recommendations to the VDOE, understanding that some of these recommendations may require legislative action and/or changes to and/or additions to state regulations promulgated by VDOE. Other recommendations will require that the VDOE work with key partners such as parent organizations, TTACs, Institutions of Higher Education (IHEs), and others.

**A Note on Confidentiality of Sources:**

No individuals interviewed for this report are named. Instead, we may refer to individuals as “parents,” “advocates,” “District Directors,” “superintendents.”

**A Note on the Revised Recommendations:**

Based on review of the recommendations, we realized that there were too many recommendations and that they should be prioritized indicating which should be acted on first and which can wait for later action and implementation. As such, we 1) reconfigured the recommendations in an attempt to provide actionable recommendations that we believe are calculated to provide transformational change and 2) organized the recommendations that remain in this revised report into three additional sections: those that should be considered for immediate execution/implementation; those that, while still important, should be considered for later implementation; and those that could be considered by VDOE for implementation at some point in the future. Please note that the findings remain unchanged and that we indicate that we believe that Dr. Hollins and her team are well positioned and capable of helping achieve these needed changes under the leadership of Dr. Coons.

**FINDINGS**

The findings from this project will be presented in three sections based on the scope of work and the stakeholders interviewed. These stakeholders were: parents of students with disabilities (SWDs) receiving special education and related services in the Commonwealth and advocates for these individuals; local Division Directors of Special Education; and Superintendents.

## **PARENTS/ADVOCATES**

### **Parent Concerns Regarding their Rights under Federal Law (IDEA) and VDOE Regulations:**

Parents expressed a desire to receive more detailed and rapid feedback on outcomes from the monitoring of divisions conducted by VDOE.

Parents expressed serious concern about the perceived failure of divisions to provide the specially designed instruction to which SWDs are entitled under IDEA.

Parents expressed a desire to see VDOE improve the technical assistance it provides to divisions, especially those that are found to be noncompliant with IDEA based on VDOE monitoring. Additionally, parents indicated that the VDOE must do a better job ensuring that corrective action plans (CAPs) that result from monitoring of divisions and formal letter of complaint investigations are implemented.

Parents expressed their perception that CAPs resulting from investigations following receipt of a formal letter of complaint are not monitored for implementation and sustainability. This implies that VDOE is not adequately enforcing CAPs resulting from formal letters of complaint.

Parents expressed frustration that child find was not being provided in sufficient quantity and quality to comply with IDEA requirements and to appropriately determine eligibility for special education.

### **Parent Concerns Regarding Transparency of Governmental Actions to Comply with Laws & Regulations:**

Parents expressed a desire for things to change at VDOE and that they would like to “have their voices heard.” There was a pervasive perception that VDOE is not “parent friendly.”

Parents expressed frustration at the shortage of lawyers who are knowledgeable of IDEA and available to provide low cost or pro bono representation to parents. Parents feel that they need accessing additional legal representation to more fully advocate for their students at IEP team meetings or when filing a complaint or a request for due process.

### **Parent Concerns Regarding Parent-Educator Collaboration:**

Parents expressed dissatisfaction with the perceived partiality of special education due process hearing officers who, they believe, rule disproportionately in favor of divisions. Parents believe

that hearing officers are not adequately trained, that they may be intimidated by division attorneys, and that many hearing officers are not objective. This perception is supported, in part, by infrequent rulings in favor of parents.

Parents expressed serious concern that they are not provided with independent educational evaluations (IEEs) when they are requested, as required by federal law (IDEA) and VDOE regulations.

Parents expressed frustration that evaluations and triennial re-evaluations are not being conducted in a timely manner. According to parents and advocates, triennial re-evaluations often do not contain current testing data. Parents also expressed that re-evaluations are often based on outdated test results and other information related to their SWDs. Therefore, evaluations do not adequately inform present levels of academic performance, a potential violation of state and federal law, according to the parents and advocates who spoke with us during this project.

Parents expressed serious concerns that Functional Behavioral Assessments (FBAs) and Behavior Intervention Plans (BIPs)-are not being conducted or not being conducted appropriately resulting in some SWDs being inappropriately disciplined.

#### **Parent Concerns About IEPs:**

Parents expressed concern that the State Recommended IEP system (VAIEP) does not allow for sufficient parent input in certain areas, an essential element in public support of education. Parents believe improvements to the VAIEP system are needed.

Parents expressed concern that they do not receive draft IEPs with sufficient time to review them in advance of IEP team meetings. Additionally, some parents indicated that some draft IEPs were incomplete and did not, for example, include goals or objectives or present levels of performance.

Parents want to see improvements made to the facilitated IEP process. They expressed frustration that the “facilitation” did not actually facilitate the development of IEPs that were designed to meet the unique needs of their student.

Parents expressed frustration about the infrequency of Department for Aging and Rehabilitative Services (DARS) staff being invited to and participating in IEP transition meetings. They also expressed frustration at the general failure of transition IEPs to adequately address the transition needs of SWDs.

Parents expressed a sincere desire to see improved communication and collaboration at IEP team meetings between school staff and parents. Parents want to collaborate with division staff.



**Parent Concerns About Professional Learning:**

Parents expressed concern that more opportunities for parent learning are needed about all issues in special education, particularly their rights and responsibilities under IDEA.

Parents expressed serious concern about the critical need to improve professional learning for all personnel working with SWDs. Improved professional learning along with significantly improved pre-service training was noted and requested.

Parents expressed frustration that special education and general education staff are not adequately prepared to deal with challenging behaviors exhibited by some SWDs.

Parents expressed frustration that professional learning on the use of assistive technology (AT) is not provided and/or is insufficient to allow parents to understand how the AT is to be used to help their students.

Parents expressed a desire to see more inclusion of SWDs in general education settings in many divisions.

**Parent Concerns About Post-Secondary Opportunities for their Children:**

Parents expressed that they are not appropriately and adequately informed about the applied studies diploma option and that they did not realize that when their student receives this “diploma,” post-secondary options are severely limited. For example, their student graduating with the applied studies diploma cannot access college or university, join the military, go to a community college, or enroll in many vocational programs.

Parents expressed frustration about the lack of Career and Technical Education (CTE) programs for SWDs in divisions across the Commonwealth. Parents also expressed their desire to see increased CTE programs and more opportunities for concurrent enrollment in community colleges where these programs are available.

Parents expressed frustration with the perceived lack of vocational training programs and job placement programs for SWDs eligible to receive those services.

**Parent Concerns About Teacher Quantity and Quality:**

Parents expressed serious concern about the shortage of qualified personnel in special education – special and general education teachers and school administrators.

Parents expressed serious concern about the lack of diversity in the membership of the State Special Education Advisory Committee (SEAC).

Parents also expressed concern about the lack of diversity on some local division SEACs.

**Parent Concerns About Response to Intervention and Managing Behavior Exhibited by their Children:**

Parents expressed frustration that the Response to Intervention (RtI) process is sometimes used to delay conducting comprehensive multidisciplinary evaluations as required under IDEA.

Some parents expressed serious concern about the disproportionate use of suspensions and expulsions for minority SWDs across the Commonwealth.

Parents expressed serious concern about some divisions calling them to take their SWDs home, often on numerous occasions, for alleged discipline infractions rather than the school complying with the discipline requirements under IDEA. It was further expressed that some parents believe that some schools/divisions are attempting to avoid reporting disciplinary actions required under IDEA by asking parents to remove their SWDs from school for the alleged discipline infraction.

Parents expressed frustration that progress monitoring data on how SWDs are responding or not responding to interventions are not provided nor communicated to parents.

**LOCAL DIVISION DIRECTORS**

**Division Director Concerns About Monitoring:**

Directors expressed frustration with the amount of time VDOE takes to provide feedback from monitoring visits and monitoring activities (both virtual and on site).

Directors expressed a desire to receive the monitoring rubric from VDOE well in advance of their on-site monitoring visit and as soon as is possible once they've been notified that they will be monitored. Receiving the rubric in advance would allow these Directors time to gather data needed for the monitoring process.

**Division Director Concerns About Dispute Resolution and Advocacy:**

A significant number of Division Directors indicated that stress has impacted their and their teachers' lives and health stemming from interactions with certain "advocates." Some Directors indicated that these interactions have been so toxic and stressful that some teachers are leaving the profession.

Directors expressed a need for a code of conduct for IEP team meetings due to inappropriate behavior on the part of some advocates that is sometimes displayed at these meetings.

Some Directors indicated that VDOE should consider reissuing or revising and reissuing the 2016 memo from the (then) State Superintendent on expected conduct at IEP meetings and how advocates and educators should conduct themselves at those meetings.

Directors expressed a desire that VDOE lawyers send a “cease and desist” letter to advocates who behave inappropriately at IEP meetings with division staff.

Directors expressed a desire to be informed when VDOE receives a parent formal letter of complaint and reported that this is not currently occurring.

Some Directors felt that the VDOE will generalize findings that result from VDOE investigations associated with formal letters of complaint. These Directors indicated that some VDOE letters of findings issued indicated that a division had a “systemic issue” when this conclusion was based on only one or two specific complaints.

#### **Division Director Concerns About IEPs:**

Directors expressed a need to improve the Virginia IEP (the state recommended IEP) to include modules that divisions are currently paying for to add to what is made available at no cost by VDOE. These modules include translation; electronic signature; more room for parent input; linkages with student information systems (SISs); etc.

Directors expressed frustration over the lack of DARS participation at all transition IEP team meetings. They noted a failure of DARS staff to attend all transition IEP team meetings when invited.

#### **Division Director Concerns About Training and Technical Assistance:**

Directors expressed a desire to see VDOE train all SEAC members across the divisions on their roles and responsibilities as SEAC members, specifically as they relate to special education. Training materials developed and promulgated by VDOE should be used in mandatory training of all SEAC members according to these Directors.

Directors expressed a desire that TTACs increase their training of general and special education staff (including building administrators) on differentiated instruction, evidence-based practices, and instructional strategies that have proven effective in improving academic achievement for struggling students, including SWDs. Behavior management strategies should also be a focus of the TTAC trainings.

Directors expressed a need for all teachers, both general and special educators, to be trained in the Science of Reading and evidence-based, effective interventions for students who struggle with reading.

Directors expressed a desire to conduct an evaluation of the TTAC network to determine what each TTAC is providing, if TTAC technical assistance is effective and if it is aligned with VDOE and division priorities and needs.

### **Division Director Concerns About Licensure and Personnel:**

Directors expressed frustration over the shortage of special education personnel and the difficulty recruiting and retaining qualified special education staff.

Directors expressed frustration over the lack of flexibility in assigning licensed special educators based on the current system that confers two different special education licenses, each with different roles and responsibilities. For example, this two-license system can make it difficult to assign a special education teacher to a self-contained class of SWDs due to their lacking the appropriate licensure.

Directors expressed a desire to see one license for all special education personnel in Virginia.

Directors expressed a frustration that good news about special education is rarely reported by the media. They expressed a desire to see more reporting of stories about positive things happening for SWDs and their families. They know that most parents are satisfied with the services their students are receiving, yet they rarely see stories about these families or students.

### **Other Concerns Expressed by Division Directors:**

Directors wanted VDOE to consider creating regional offices where VDOE staff could be placed to better serve the eight regions across the Commonwealth. This was expressed as a way for VDOE to have more direct contact with local Division Directors.

Directors expressed a desire to have the behavioral health programs currently being administered by the VDOE's Office of Special Education Facilities and Family Engagement moved to another office within VDOE, specifically to an office that focuses on general education, based on their expressed belief that behavioral health issues affect all students, not just SWDs receiving special education services.

## **SUPERINTENDENTS**

Some Superintendents wanted Dr Coons to know that she is doing a great job and that she has had much more interaction with Division Superintendents than her predecessor. This perception was shared in the hope that Dr Coons would receive this positive feedback from some Superintendents.

### **Superintendent Concerns About Monitoring and Dispute Resolution:**

Some superintendents expressed concern that VDOE is not a neutral party when they receive complaints from parents of SWDs. These superintendents expressed concern that they feel that they are put immediately on the defense before they are given an opportunity to present their response and information related to the complaint.

Some Superintendents expressed concern that some VDOE staff provide incorrect information to parents of SWDs when parents call to ask questions about issues related to IDEA and/or VDOE regulations governing special education. These Superintendents then expressed concern that when parents are misinformed and believe incorrect information that parent-LEA relationships are made more difficult.

Some Superintendents expressed concern that the accreditation process does not acknowledge that the gap between SWDs and their non-disabled peers exists because, in the aggregate, SWDs don't perform at the same level as their non-disabled peers and this gap should not impact their accreditation.

### **Superintendent Concerns About Graduation and Assessment:**

Some superintendents did not know about the applied studies diploma and did not realize that option was available to SWDs and their families. Nor did they know that this diploma would limit post-secondary opportunities for graduates receiving this "diploma."

Some Superintendents expressed a desire to see the 1% cap on use of the VAP expanded to allow more SWDs to take the VAP and have those scores not be used for reporting or accreditation purposes.

### **Superintendent Concerns About Funding and Training:**

Some Superintendents expressed the need to have more funding for special education in their divisions.

Some Superintendents expressed the need for school board members to receive training on special education to increase their knowledge of special education, IDEA, and VDOE regulations governing special education.

## **Recommendations for Immediate Execution/Implementation**

### **Monitoring**

The VDOE must improve its monitoring of compliance with state and federal laws to improve the confidence of the public and parents of students with disabilities and, ultimately, to improve outcomes and results for students with disabilities receiving special education in the Commonwealth.

VDOE must significantly modify its current monitoring system and procedures to rapidly detect areas in need of improvement that result from findings of noncompliance. OSEP has provided recent guidance which will be helpful. Modifications should include:

- 1) VDOE must create clear, data-informed criteria to be used to identify divisions, outside of the five-year monitoring cycle, that will trigger additional divisions to be monitored for noncompliance. Data related to VDOE key performance measures (areas that the VDOE is actively trying to improve) must be gathered, updated, and analyzed at least annually. These data should include violations of discipline provisions; disproportionality in suspensions and expulsions; use of restraints/seclusion; LRE; parent complaints; outcomes of due process hearings; and graduation rates. Once developed, these criteria will be used by VDOE to select divisions to be monitored off cycle based on data, rather than a division waiting their turn in the current five-year monitoring cycle.
- 2) VDOE should create and fill up to four additional positions in the Office of Special Education Facilities and Family Engagement and one or more positions in the Office of the Special Education Ombudsman to increase:
  - a. support for compliance with federally required timelines for completing investigations into special education complaints.
  - b. the ability to conduct deep analyses of the numbers, types and locations of all dispute resolution activities including calls to the Ombudsman, facilitated and mediated IEPs, formal letters of complaint, and due process hearings. These analyses should be ongoing (with results published at least annually) and those results should be shared publicly to provide transparency to parents, the learning community and interested parties.
  - c. monitoring and oversight of CAPs that result from identified noncompliance with a focus on improving services to, and outcomes for students with disabilities and their families in the local divisions.

- 3) VDOE should revise its special education monitoring system to place special provisions on how a division with chronic, egregious non-compliance with the IDEA can spend its IDEA allocation. Special provisions would require VDOE oversight of, and approval for, all IDEA expenditures in that division for a specified period.
  
- 4) VDOE should review all special education-related regulations to identify those VDOE regulations which exceed IDEA requirements and ensure that those regulations are still relevant, necessary, and user-friendly. This review should be conducted by parents and professionals selected by VDOE to represent different stakeholder groups.

### **Dispute Resolution**

- 1) VDOE should work with the Virginia State Legislature to move the selection and maintenance of special education hearing officers from their current appointment and supervision by the Virginia Supreme Court to an independent entity (e.g., the University of Virginia School of Law or the William and Mary Special Education Law Clinic). This change would address the parent and advocate perception that the current due process hearing officer model in the Commonwealth is biased and not fair to the parents who file requests for due process hearings. Statutory or regulatory change may be needed to accomplish this change in how hearing officers are selected, trained, and evaluated for their performance. VDOE should work with the OSEP funded Center for Alternative Dispute Resolution in Special Education (CADRE) to develop state of the art training for hearing officers selected by this new process.
  
- 2) VDOE should provide continuous and vigorous monitoring of CAPs that result from a division being monitored or an investigation following receipt of a formal letter of complaint. If technical assistance is warranted to execute the CAP, then VDOE and the TTAC network, as needed, should provide relevant assistance quickly. Additionally, VDOE staff must observe required changes to the special education program in the affected division.
  
- 3) The TTAC network should be evaluated for their performance, and retooled, reconfigured and reorganized based on the data from that evaluation to allow the TTAC network to assist Divisions in the implementation of CAPs, and provide TA as needed to ensure that CAPs are implemented making needed changes based on identified areas of non-compliance. The evaluation must also document how the TTAC network is meeting the needs of Divisions apart from CAP assistance, and whether the TTAC network needs to be revised.

### **Independent Educational Evaluations**

- 1) VDOE must ensure that when an Independent Educational Evaluation (IEE) is paid for with public funds, it complies with the same criteria that the division uses when conducting an initial evaluation of a student to the extent that these are consistent with the parent's right to an IEE. Schools must inform parents what those criteria are – such as the location of the evaluation and the qualifications of the examiner. Additionally, the division may not impose other conditions or deadlines with respect to conducting the IEEs at public expense.
- 2) VDOE should ensure through its monitoring process that information on where parents can obtain IEEs is provided to parents and that requests for IEEs are honored and paid for by the division. The division may ask the parent/caregiver why they object to its evaluation, but it may not require that the parent explain, or cause unreasonable delays in providing the IEE at public expense or in initiating due process to defend its evaluation.

### **The Virginia IEP (VAIEP)**

- 1) VDOE should mandate that all divisions in Virginia use the Virginia IEP (VAIEP) to ensure uniformity in meeting state and federal requirements. VDOE should work with the Virginia State Legislature to make needed statutory changes to require that all divisions use the VAIEP system. Doing so would, at a minimum, standardize trainings on how to conduct and complete high quality IEPs and allow the VDOE to randomly sample IEPs online as part of its compliance monitoring. In requiring all divisions to use the VAIEP, the VDOE should purchase and provide, at no cost to the divisions, any additional modules that divisions may need that are related to compliance with federal and state special education laws and regulations.
- 2) VDOE should ensure that parents can provide input on relevant sections of the IEP when using the VAIEP, including present levels of performance and goals and objectives for their students with disabilities (Remove any character limitations that may exist.).

### **Advocacy**

- 1) VDOE should provide additional funding to Virginia Commonwealth University (VCU) and new funding to PEATC to expand the pool of Special Education Family Navigators, especially in Northern Virginia. Additionally, these Family Navigators should be encouraged to attend more IEP meetings to provide more support to parents.



- 2) VDOE, in collaboration with the Council of Parent Advocates and Attorneys (COPAA), PEATC (the federally funded and recognized PTI for VA), and the VCU Parent Center should develop and promulgate a Code of Ethics for Special Education Family Navigators (and other special education advocates) which those advocates must affirm to be a recognized and as a certified Family Navigator or a Certified Parent Advocate. This proposed Code of Ethics will describe appropriate behavior at IEP meetings and how to appropriately seek remedy for special education disputes. Noncertified parent advocates can also elect to affirm this Code of Ethics and become certified. VDOE will then publish and promulgate the list of all Family Navigators/Certified Parent Advocates who have signed the Code of Ethics to parents of SWDs who may desire the services of a Certified Parent Advocate/Family Navigator. This certification process will in no way prevent a parent of a student with a disability from bringing anyone they choose, certified or not, to an IEP team meeting; rather, it serves to create a clearinghouse of Certified Special Education Family Navigators/Certified Parent Advocates, distinguishing them from those advocates who are not certified.

### **Behavioral Health:**

- 1) VDOE should move responsibility for the administration of behavioral health programs currently being administered by the VDOE's Office of Special Education Facilities and Family Engagement to another office within VDOE, specifically to an office that focuses on general education. This recommendation is based on the evidence that behavioral health issues affect all students, not just SWDs receiving special education services.

### **Data**

- 1) VDOE must significantly improve its data system to allow for more transparency, as well as improved analytical and reporting ability. Data on all key indicators related to special education, by division and at the state level, must be posted on the VDOE website. Data must be easily accessible to the public and it must be updated at least annually. This will allow the VDOE and the public to compare data and outcomes across divisions and over time. It will also allow the VDOE to use these data to select divisions for further monitoring, look at change over time, and provide rapid answers to requests for data on issues related to special education.

### **Response to Intervention**

- 1) VDOE, through its monitoring, dispute resolution activities and technical assistance, must ensure that Response to Intervention (RTI) is not used to delay the provision of comprehensive multidisciplinary evaluations pursuant to the OSEP Memorandum articulating this requirement so that evaluations are conducted in the required timeline.

### **Training and Technical Assistance**

- 1) VDOE must work with Institutions of Higher Education (IHEs), the TTAC network, and national experts in special education to improve pre-service and in-service training for special educators. These improvements must address those interested in becoming special educators, those currently licensed, those seeking recertification, and those personnel who are currently serving as provisionally licensed special education teachers across the Commonwealth.

RECOMMENDATIONS THAT SHOULD BE CONSIDERED FOR LATER IMPLEMENTATION AND ARE STILL IMPORTANT TO TRANSFORMATIONAL CHANGE:

### **High School Diploma and Transition**

- 1) The VDOE should strongly consider creating an alternate to the Applied Studies Diploma and creating an alternate pathway to the Standard Diploma. This alternate pathway would be based on attainment of a student's IEP goals as determined by the student's IEP team. This alternate pathway to the Standard Diploma will allow these students to have access to post-secondary opportunities that are not available to them currently if they graduate with an Applied Studies "Diploma," which is a certificate of completion, not a diploma.

### **Funding**

- 1) As recommended in the Joint Legislative Audit and Review Commission's (JLARC) report, "Virginia's K-12 Funding Formula, Commission Draft" (2023), VDOE should adopt a student-based funding formula that provides a higher amount of funding than a division would receive for a general education student. This change in funding must recognize that every student with a disability is first a general education student, but additional funding is required to provide special education and related services.

The JLARC study suggests that a student count-based formula would fund a general education student at \$X and student receiving special education at \$Y (greater than X).

VDOE may want to look at successful student count-based funding formulas currently used in other states to determine the right option for Virginia.

- 2) Should the funding formula be changed as recommended above, administration of the special education-related funding currently administered by the CSA should be transferred to the VDOE. These funds could then be added to the allocations distributed through the proposed new funding formula. Changing the way CSA allocations are made in this way would comply with IDEA provisions regarding division responsibility for paying for out-of-district placements when that decision is made by the IEP team.

### **Educator Licensure**

- 1) VDOE should require that general education teachers and school administrators complete at least one course on special education to receive their license and certification or when they renew their license and certification (if they have not already completed the course.) This course should include, at a minimum: understanding the IDEA, differentiated instruction, science-based reading instruction, student placements that emphasize the least restrictive environment (LRE), discipline, dispute resolution, and working with parents of SWDs. This content could be developed by VDOE in consultation with national experts and the existing TTAC network and parent organizations, including the National Center on Teacher Quality (NCTQ).
- 2) VDOE should create only one license for special educators rather than the two currently recognized licenses in the Commonwealth. This will provide divisions more flexibility when staffing their special education programs.

### **Other**

- 1) VDOE should ensure that the membership of the State Special Education Advisory Committee reflects the racial/ethnic diversity of the Commonwealth of Virginia. VDOE must work with the State Board who appoints members of the State SEAC to accomplish this important goal so that minority representation is increased on this committee.
- 2) VDOE's Public Information Officer should be used to publish, promulgate, and disseminate information and stories about the positive things that are happening in special education throughout the Commonwealth. PEATC and Division leadership should be contacted to solicit positive stories of success among the 182,000 SWDs receiving special education and their families.

RECOMMENDATIONS THAT VDOE MAY WANT TO CONSIDER FOR IMPLEMENTATION AT SOME POINT IN THE FUTURE:

**Monitoring:**

- 1) When a division is selected to be monitored, the VDOE should provide the monitoring rubric (data to be provided to VDOE by the division) at least 30 days in advance of the division being monitored. This will allow divisions (particularly smaller divisions with less human resources) adequate time to prepare documentation and gather data required for VDOE Monitoring.
- 2) VDOE should provide much quicker feedback to divisions regarding findings of non-compliance and required corrective action following VDOE monitoring. The current delays in providing feedback from the monitoring process must be significantly reduced.
- 3) VDOE should monitor divisions for violations of the discipline requirements under the IDEA. This monitoring must include eliminating the current practice of divisions calling parents to remove their students from school, often repeatedly, to avoid manifestation determinations, appropriately suspending SWDs, and complying with the discipline requirements of IDEA.
- 4) The VDOE, as part of its monitoring of divisions, should examine disproportionality in placements (LRE); graduation rates; SOL scores; suspensions and expulsions; and use of seclusion/restraint by race/ethnicity.

**Dispute Resolution:**

- 1) VDOE should increase efforts to publicize the availability of the Special Education Ombudsman, the facilitated IEP, and special education mediation. VDOE should provide up-to-date information describing each of these options and how parents of SWDs and local Division Directors can access them. This information dissemination could include Superintendent's and/or State Director's Memos to division personnel; dissemination through TTACs, parent organizations, Special Education Advisory Committees; and through social media.
- 2) Information on the availability of the Office of the Ombudsman should be included on Prior Written Notice forms provided to parents of students with disabilities.
- 3) Special education mediators should receive professional learning from PEATC and/or the William and Mary Special Education Law Clinic. These opportunities would better ensure that the rights of parents and educator roles are better understood and supported by mediators.

- 4) VDOE should inform Division Directors when a parent complaint is received. This will support improved communication between VDOE special education staff and Division Directors and improve resolution of complaints.
- 5) VDOE should be careful not to generalize findings of noncompliance that result from an investigation into a single letter of complaint.

**Independent Educational Evaluations:**

- 1) As part of its monitoring process (and otherwise – for example through Director or Superintendent Memos), VDOE must ensure that divisions have up to date information on all agencies in each region that can provide IEEs, and the costs associated with those IEEs.

**Teacher and Related Service Personnel Shortages:**

- 1) The VDOE must make every effort to address the educator shortage that Virginia is experiencing. Virginia must work to increase the number of educators, special educators and related service personnel and make this a priority. Towards this end, VDOE must work with all Institutions of Higher Education (IHEs) in the state that have teacher training programs and/or train related service personnel to expand their pipelines and increase enrollment in these programs. Further, VDOE may want to explore the option of working with the State Assembly to pass legislation that facilitates increases in enrollment in these critical areas. Legislative options might include increasing teacher salaries, scholarships, or loan-forgiveness programs.

**The Virginia IEP (VAIEP):**

- 1) To support divisions as they migrate from their current electronic IEP systems to the VAIEP, additional IT staff at the VDOE may be needed. These migrations should be as seamless as possible.
- 2) VDOE must ensure that divisions provide draft IEPs to parents of SWDs in adequate time for parents to review the draft prior to having the formal IEP meeting. Additionally, VDOE must ensure that these drafts are as complete as possible.
- 3) VDOE, through its monitoring and dispute resolution activities, must ensure that IEPs include goals that are aligned to the mandate from the *Andrew Decision* requiring that an LEA must offer an IEP that is reasonably calculated to enable a student to make appropriate progress considering the student's circumstances. In short, IEP goals and objectives must be based on a student's present levels of performance, and not uniquely on grade-level expectations.

4)VDOE must ensure that their guidance regarding standards-based IEPs allows the development of IEPs that incorporate the SOLs for the grade in which the student is enrolled or will be enrolled. This incorporation of SOLs in IEPs can easily be tracked once all divisions in Virginia are using the VAIEP.

**Advocacy:**

1)VDOE should encourage more law schools in Virginia to offer courses on the IDEA and Virginia special education-related statutes and regulations thereby increasing the number of attorneys knowledgeable about special education law. Hopefully, this will result in more attorneys available to parents of SWDs receiving special education, ideally at low cost or pro bono.

**Data:**

- 1) VDOE should create, maintain, and disseminate data visualizations that are easy to understand and post them on the VDOE website in a “dashboard” format. At a minimum, these should include data on SOL scores, graduation rates, LRE placements, discipline, disposition of dispute resolution processes, disproportionality by race/ethnicity and all other VDOE priorities in special education. This will allow parents, divisions, and the public to better understand how students with disabilities are performing in Virginia public schools.

**Response to Intervention (RtI):**

- 1) For students who receive special education services and who struggle with reading, VDOE should ensure that reading assessments are conducted. Interventions based on the science of reading must document that students are responding to the chosen intervention(s) and that these interventions are delivered with fidelity and treatment integrity.
- 2) VDOE must work with divisions and parents to ensure that all stakeholders know that IDEA expects that information obtained from research-based interventions will be included in the overall evaluation of a student to determine the student’s educational needs.

**Training and Technical Assistance:**

- 1) VDOE should migrate from on-line training modules to in person or virtual professional learning (as Covid permits). These learning opportunities should be delivered in person in each of the eight regions to maximize participation of both educators and parents. In person professional learning could be broadcast to any or all the other seven regions.
- 2) VDOE should consider requiring state board of education members and local board of education members to receive basic training on special education.
- 3) VDOE should provide high quality, evidence-based professional learning to provisionally licensed special education teachers. This training should be co-developed and co-delivered by VDOE staff, TTAC personnel, and parents from recognized parent organizations such as VCU and PEATC. These professional learning opportunities could be provided through an iterative model that provides micro-credentials and allows individuals who complete these trainings to receive college credits towards their full license and/or degree.
- 4) VDOE should work with the federally funded PTI (PEATC) to co-develop training modules on parent-educator collaboration and co-deliver these trainings to educators, school administrators, IEP facilitators, mediators, hearing officers and parents. Training both parents and educators together will facilitate collaboration, cooperation, and consistency of information provided to both parents and educators.
- 5) VDOE should:
  - a. fund and expand the *Parent Advocacy Symposium* in collaboration with PEATC;
  - b. expand the *Aspiring Special Education Leadership Academy* by funding staff to provide the Academy to an additional cohort of educators; and
  - c. expand the *Journey into Teaching* training.
- 6) VDOE should encourage exemplary divisions to partner with underperforming divisions in their region, to replicate successful practices which have resulted in VDOE identifying these as exemplary divisions in special education. The VDOE should compile a list of such divisions, what specific practices make them “exemplary,” and what they can offer to neighboring divisions. This list will need to be update regularly.
- 7) VDOE should issue guidance and training on how and when to conduct Functional Behavioral Assessments (FBAs) and how to conduct them with the use of best practices. This information should also be provided to parents of students with disabilities.

- 8) VDOE should issue guidance requiring that Dyslexia Advisors be invited to IEPs of students with or suspected of having dyslexia.
- 9) VDOE should require all SEAC members at the division level to complete the training developed by VDOE which includes print and online materials. This training process should include certifying that SEAC members have successfully completed this training.

**High School Diploma and Transition:**

- 1) If VDOE decides to keep the “Applied Studies Diploma,” the VDOE should rename it the “Applied Studies Certificate” or the “Certificate of Completion.” Further, if the VDOE chooses to keep the Applied Studies Diploma, VDOE must ensure that parents are informed about its limitations in respect to post-secondary opportunities for their SWDs.
- 2) VDOE should encourage and facilitate linkages between divisions and local vocational training programs and community colleges, creating increased opportunities for concurrent enrollment and vocational training for SWDs.

**Other:**

- 1) VDOE should strongly consider creating a “clearing house” type webpage (linked to VDOE’s current webpage) that contains all policy changes by date and title. These should be posted as soon as a policy is changed/made and should include changes to statute or regulation, Superintendent’s and Special Education Director’s Memos, and any other significant policy changes that divisions and parents/advocates should be aware of.
- 2) Some Superintendents suggested that the VDOE convene a taskforce of relevant and diverse stakeholders to assist the VDOE with implementing the recommendations in this report. The VDOE may want to consider this.