II.   Education

A.   Introduction to Preschool and K–12 Services

All children in the United States are entitled to a publicly funded education. Should they need them, students with disabilities are also entitled to services and supports, referred to as **"special education,"** which ensure that the education they receive is appropriate to their individual needs. Requirements for the provision of a "**free, appropriate public education**" (FAPE) for eligible students with disabilities are established under the **Individuals with Disabilities Education Improvement Act of 2004 (IDEA)** (PL 108-446).

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, including the Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton), and private schools in the Commonwealth that provide special education and related services for children with disabilities who are placed by a local school division.

The **Early Intervention** 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.

Some students with disabilities do not require specialized instruction available under IDEA but rather need **reasonable accommodations** in order to be successful in their education. These are provided under **Section 504** of the amended federal **Rehabilitation Act of 1973** (29 USC § 794) and its implementing regulations (34 CFR 504). 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.

Laws and regulations governing education services for students with disabilities are extremely complex; they cannot be fully covered within the scope of this document. 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 (VSDB-Staunton)**, which is a state agency that operates independently of the **Virginia Department of Education (VDOE)** with its own Board (Code of Virginia § 22.1-346). 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 the Board on matters pertaining to instruction, federal and state special education requirements, and school accreditation.

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, state-operated training centers, or other residential programs. Discussion of the services provided within those settings is beyond the scope of this *Assessment*. This chapter addresses preschool services followed by services for kindergarteners through 12th graders.

B.   Federal Head Start Program

1. Preschool Screening and Eligibility for Head Start

Children from birth to age five whose families meet income eligibility requirements may receive services promoting academic, social, and emotional development through federally funded and locally operated Head Start programs. Federal Head Start Program Performance Standards (45 CFR, Chapter XIII, Part 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 (EHS)** 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.

➢ No less than ten percent of the total number of children actually enrolled by each Head Start program and delegate agency must be children with disabilities who are 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 Improvement Act (IDEA) (20 USC §§ 1419, 1431 et seq.)]

Head Start grantees (or the agencies to which the grantee delegates program operations in their area) are required to conduct **outreach activities** that include strategies to actively locate and recruit children with disabilities. They must also ensure that recruitment staff is 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).

A Head Start program cannot deny placement on the basis of a disability or its severity when

- ➢ the parents wish to enroll the child,

- ➢ the child meets Head Start age and income eligibility criteria,

- ➢ Head Start is an appropriate placement according to the **Individualized Education Program (IEP)** designed for the child post-evaluation, and

- ➢ the program has space to enroll more children, even though it has made ten percent of its enrollment opportunities available to children with disabilities. In this case, children with and without disabilities compete for available enrollment opportunities.

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. At the beginning of every program year, each Head Start program is required to develop a **waiting list** of unselected, eligible children that must be maintained throughout that year. Children on the 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.

2. Access to and Use of Head Start

Head Start's mission is to help children who are "at risk" for or have developmental delays or disabilities better prepare 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. According to the **Virginia Head Start Association's** 2012 annual report, Head Start programs in Virginia have over 300 signed collaborative agreements.

According to the *2011–2012 Head Start Program Information Report (PIR)* and its *Disability Services Multi-Year Report,* in federal fiscal year (FFY) 2010, there were 66 Head Start programs

of which 18 provided Early Head Start (serving pregnant women and children from birth to age 3). In FFY 2012, the report indicates 65 programs with 18 providing Early Head Start services.

Figure 7 shows **enrollment** in Virginia Head Start over the last five years. *Head Start Program Fact Sheets*, published by the federal Administration for Children and Families, indicate enrollment increased between FFYs 2008 and 2009. It spiked in 2010, then dropped below the 2009 level in 2011 and stayed lower in 2012. This decline in enrollment is likely due to the recession and resulting budget cuts with the 2010 increase likely reflecting the availability of federal stimulus funds from the American Recovery and Reinvestment Act of 2009 (ARRA). In its 2012 annual report, the Virginia Head Start Association expresses significant concern over the impact of federal sequestration on its ability to serve children and families.

Figure 7. Head Start Enrollment by FFY
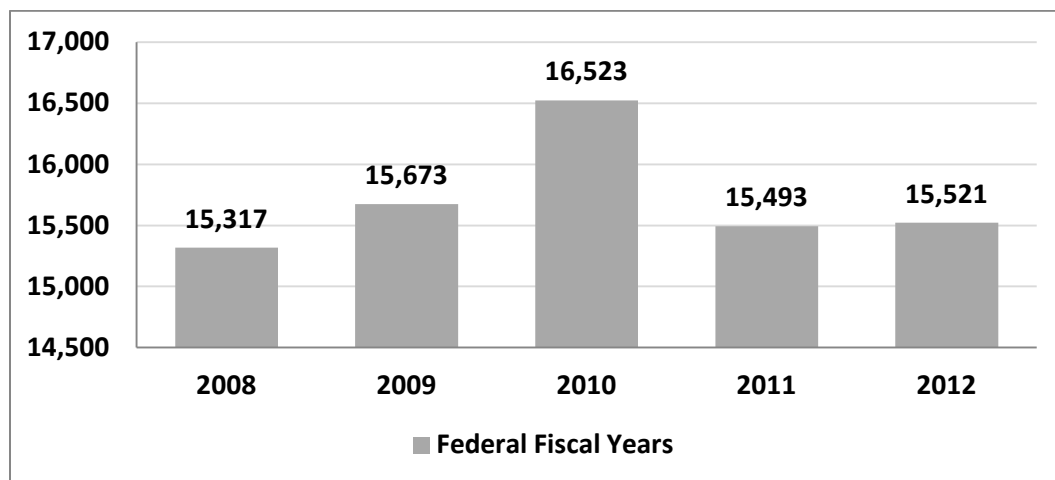
Source: The Administration for Children and Families' *Head Start Program Fact Sheets* (2008–2012).
http://eclkc.ohs.acf.hhs.gov/hslc/mr/factsheets

Federal Head Start regulations require Head Start programs to proactively inform families about the program and encourage them to apply. This specifically includes coordinating recruitment activities with other early intervention and special education programs as well as with local health departments and practitioners to identify children with disabilities. 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 staff from affiliated Community Action Agencies, where applicable), as well as public school divisions (formerly called "local educational agencies"), and a wide variety of other public and private providers. Reflecting the community's needs and resources, 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 encouraged to volunteer their time and talents to the program.

Each child enrolled in a Head Start program (except those enrolled in a Head Start 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. However, a program can choose not to enroll or re-enroll a child *if* there is a change in family income *and* there is a child with a greater need for services.

Head Start staff works 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 public school service providers to monitor each child's progress and coordinate activities.

The Head Start program information reports for FFYs 2009 through 2012 show that Virginia's programs are consistently serving slightly more children with disabilities than the 10 percent required to have an Individualized Education Program (IEP). Their numbers were highest in FFY 2010, again, likely due to the infusion of ARRA stimulus funds.

Table 8 shows the primary disabilities of preschool children receiving Head Start services from FFYs 2009 through 2012. The federal *Program Information Reports (PIRs)* contain enrollment statistics but do not provide an analysis of statistics or associated anomalies. The most obvious disparities are the significant decrease in children labeled as having emotional/behavioral disorders, which went from 115 children in 2009 down to 4 children in 2012; children counted as having specific learning disabilities, which went from 29 in 2010 down to 1 in 2012; and the significant increase in children categorized as having traumatic brain injuries, which was zero or 1 from 2009 through 2011, then reported as 52 in 2012. The autism numbers have remained fairly stable, as have speech impairments, since a high enrollment of 1,082 in 2010 (likely due to the infusion of ARRA funds). Another anomaly appears in 2011 when the category of children with multiple disabilities shows only 1 child.

Table 8. Primary Disabilities of Preschool Children who received Head Start Services in Virginia by FFY				
Federal Fiscal Year	**2009**	**2010**	**2011**	**2012**
Autism	14	20	21	24
Developmental delay, non-categorical	498	563	491	465
Deafblind	*	0	0	0
Emotional/behavioral	115	29	14	4

Table 8. Primary Disabilities of Preschool Children who received Head Start Services in Virginia by FFY				
Federal Fiscal Year	**2009**	**2010**	**2011**	**2012**
Health impairment	11	7	4	6
Hearing impairment	11	12	5	7
Intellectual disability	7	3	3	6
Learning disabilities	17	29	11	1
Orthopedic impairment	4	2	4	6
Speech impairment	939	1,082	838	935
Traumatic brain injury	1	0	1	52
Vision impairment	5	5	7	7
Multiple disabilities*	17	46	1	39
TOTALS	1,639	1,798	1,400	1,552

Source: Head Start Program Information Report, *Enrollment Statistics Report–State Level* (2009–2012).
* Does not include deafblind children. As of FFY 2010, "deafblind" is a separate category.

3. Available Head Start Services

According to the federal *Head Start Program Fact Sheets*, the vast majority of services are offered in center-based (group) settings, such as preschools. Days per week and hours per day vary by state and locality. Many of the Head Start grantees offer additional services to meet the needs of working families, including full-day, home-based, a combination of center- and home-based, family child care, and locally designated options.

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 approaches 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.

Preschoolers who participate in Head Start and 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. Collaborative agreements exist between Head Start, schools, and other relevant organizations to facilitate that process.

4. Cost and Payment for Head Start

Federal funding for Head Start is provided through the Office of Head Start, Administration for Children and Families (ACF) of the U. S. 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 $7.7 billion in FFY 2012 with $3 million-plus in additional funds for support activities such as training, research and demonstration projects, program monitoring and evaluation, and other program support. This is up from $7.3 billion in 2011 and approximately $7.2 billion in 2010.

Virginia's allotment in FFY 2013 was $109,243,252, a decrease of 5.2 percent from FFY 2012 and comparable to the FFY 2011 funding level of $109,393,196. The allotment in 2009 was $102,461,544, which included an additional allocation of $2.1 million in federal stimulus (ARRA) funds specifically targeted for Head Start. 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.

5. Monitoring, Evaluation, and Outcomes of Head Start

Head Start is a collaborative program. According to the 2012 *Virginia Head Start Association Annual Report*, the Head Start Collaboration Project was created in 1990. There are over 300 signed agreements with local school districts, early intervention agencies, and child welfare/social services agencies that provide support services for children and families. There is also a statewide memorandum of agreement to support them. Each local program must develop a **Disabilities Service Plan (DSP)** that outlines its strategies for meeting the 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 do the following:

➢ 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 public school division for further evaluation as indicated; and

> ➤ show both commitment and specific efforts to develop appropriate interagency agreements and to work with the public school division 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. It uses the Office of Head Start's comprehensive Monitoring Protocol Evaluation Tool 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.

Comprehensive training and technical assistance is provided to local grantees throughout the Commonwealth to ensure that they are in compliance with federal Head Start regulations. Outcomes are reported annually in a multitude of areas, including but not limited to health (access to health care, oral health care, mental health, medical conditions) and school readiness. The *2012 Virginia Head Start Association Annual Report* provides some notable outcome statistics:

> ➤ By the end of the 2011–2012 enrollment year, over 97 percent of children enrolled in Virginia Head Start programs had obtained medical insurance.
>
> ➤ 90 percent of enrolled children received up-to-date immunizations and physical exams, and of those who needed medical treatment, 96 percent received treatment. Obesity and asthma were the two most diagnosed medical conditions.
>
> ➤ More than 82 percent of enrolled children received oral health examinations, and 76 percent of those needing treatment received it.
>
> ➤ 3 percent of children were referred for mental health services, but only 67 percent received services—why this percentage is so low is not known.

Head Start programs are required to track children's development in all developmental domains. The **Virginia Head Start Association** tracks indicators that research identifies as strong predictors of success in kindergarten and elementary schools.

The *2012 Virginia Head Start Association Annual Report* provides statistics that compare school-readiness levels for children who enrolled in the fall of 2011 to their skill levels in the spring of 2012. Children were assessed in the areas of fine motor skills, self-regulation, persistence and attentiveness, reasoning and problem solving, and phonological awareness.

A total of 5,484 children were assessed in the fall with 5,433 reassessed in the spring. Children with disabilities were not disaggregated. In all 5 domains, the percent meeting the expected skill levels in the fall ranged from an average low of 33 percent to an average high of 44 percent. In the spring of 2012, skill levels for these children ranged from an average low of 77 percent to an average high of 86 percent, a significant achievement.

The **Head Start State Collaboration Office (HSSCO)**, located in the Virginia Department of Social Services (DSS), conducted a five-year self-assessment that covers FFYs 2006 through 2011. A key barrier cited in the self-assessment report for that time period was the economic downturn, which has impacted the availability of state and local resources devoted to supporting children and families. The poor economy also resulted in an increase in the number of children experiencing homelessness.

Other challenges included transitions in leadership at the state level; increased degree requirements for Head Start and Early Head Start staff, which made recruitment challenging; and low wages for Head Start, Early Head Start, and other child care programs. Some programs reported difficulty in developing child care coordination partnerships with service providers. With specific respect to services for children with disabilities, the self-assessment notes strong relationships with IDEA Part C and Part B providers and the Virginia Department of Education (VDOE). The report also noted a need to integrate more specialized content related to disabilities into Head Start and Early Head Start training programs and a need to provide more and earlier opportunities for children to receive developmental screenings.

In its *Five Year Grant Renewal Application*, the HSSCO reported the results of a **Needs Assessment Survey** of local Head Start programs conducted from November of 2010 through January of 2011. An 89 percent response rate was reported. Twenty percent of Head Start grantees reported that it was "difficult" or "extremely difficult" to coordinate transportation with public school divisions and to organize and participate in joint training, including transition-related training. Difficulty in establishing partnerships with publicly funded pre-kindergarten programs was also noted. Additional detailed information on activities and projected accomplishments through 2016 can be found in the HSSCO's *Five Year Strategic Plan: 2012–2016*, which is available at http://www.headstartva.org.

Objective 3.4 in this plan is particularly relevant. The objective supports initiatives to infuse best practices for special needs into the Virginia Community College System (VCCS) curriculum through the work of the Virginia Early Childhood Mental Health Committee and through support of the Virginia Paraprofessional Early Childhood Training Project. By increasing the evidence-based, disability-related curriculum at VCCS, human services professionals are projected to better meet the disability-related needs of the children they serve.

The HSSCO is part of Virginia's **Early Childhood Advisory Council**, a member of Smart Beginnings (an organization focused on connecting private and public school-readiness initiatives in communities), and a supporter of the efforts of the Virginia Head Start Association. It has its own multi-organizational Advisory Council and serves on many other related committees, workgroups, and advisory councils. Data on participation by children and families and the outcomes of specific activities must be provided to the ACF annually. Since the program promotes inclusive practices, outcomes for children with disabilities are not reported separately from those of children without disabilities.

C.   Virginia Preschool Initiative

The 1995 General Assembly provided for expansion of the **Virginia Preschool Initiative (VPI)**. As of 2005–2006, state funds have been available to provide comprehensive preschool programs to 100 percent of Virginia's four-year-olds who are determined to be "at-risk" (as defined by VPI funding eligibility) and who are not being served by Head Start. This grant-funded program is managed by the Virginia Department of Education (VDOE) and includes services to those with developmental delays.

1. Preschool Screening and Eligibility for VPI

Services can be provided to "**four-year-olds at risk,**" including those with developmental delays, in localities that have applied for and received a state VPI grant. The *Guidelines for the VPI Application* (completed by localities) provides sample factors that localities can consider for determination of "at-risk." These include the following:

➢ The child lives in poverty and/or is homeless.

➢ The child's parents or guardians dropped out of school, have limited education, or are chronically ill.

➢ The family is under stress as evidenced by poverty, episodes of violence, crime, underemployment, unemployment, homelessness, or incarceration.

➢ The child has health or developmental problems, including but not limited to developmental delays, low birth weight, or exposure to substance abuse.

➢ The child is an English language learner.

2. Access to and Use of VPI

Localities that receive a state **VPI grant** can use these funds to:

➢ establish or expand quality, comprehensive preschool programs in public schools or community sites,

➢ purchase quality preschool education programs and services from existing providers for four-year-olds at risk,

➢ expand existing quality programs to serve more children, and

➢ upgrade existing programs to the meet criteria for comprehensive, quality preschool programs to serve new children (those not receiving services).

Note that enrollment data for the VPI does not distinguish between the number of children with disabilities and other children at-risk. **Figure 8** shows the continued growth in the number of children served by the Initiative.

Figure 8. Number of Children Served by Virginia Preschool Initiative by School Year
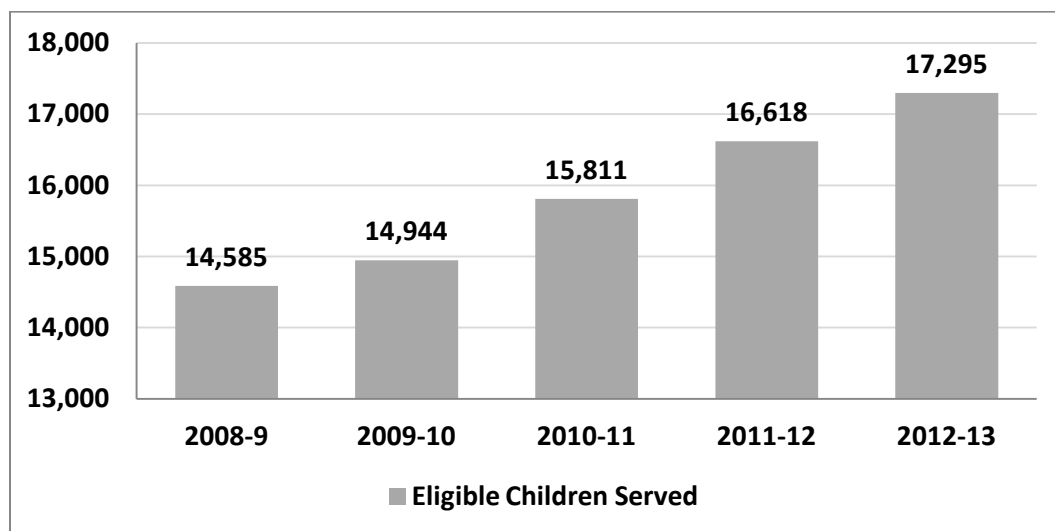
Source: Virginia Department of Education, *Virginia Preschool Initiative Briefing*, January 14, 2013.

3. Available VPI Services

Information on the VPI page of the VDOE website and the most recent (January 2013) VDOE *Briefing Report* on the VPI both state that getting children prepared for kindergarten is the focus of the VPI. Programs funded through this initiative provide instruction in math, science, history, and social science as well as physical, motor, personal, and social development. Funds can be used for preschool education, health services, social services, parental involvement, and transportation. Funds cannot be used for capital outlay. Programs funded through the grant must provide full- or half-day services. At a minimum, services must be provided during the regular school year.

Localities are required to use a tool called the **Phonological Awareness Literacy Screening-Pre-K (PALS)** during the fall and spring of each school year. As of 2012, the cost of PALS materials and access to its online score entry and reporting system became a local responsibility due to state budget reductions. These costs can come out of the VPI budget.

A local VPI program must align its curriculum 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. Class size cannot exceed 18, and the child/staff ratio cannot exceed 9:1.

Parents are required to be included as much as possible in program planning and activities; and regular, frequent communication with parents is expected to occur individually and as a

group. Programs also must provide resource materials to parents on such topics as child behavior and parent-child relationships.

The VDOE's January 2013 *Briefing Report* on VPI notes that health services provided to participating children include full immunizations; vision, hearing and dental screenings; complete physical health evaluations with periodic check-ups; and eyeglasses, hearing aids, or other assistive devices when required. Transportation is provided to every child (to and from the program) and as needed for necessary support services. Social services are provided to families to help identify non-government resources that they may be able to access.

4. Cost and Payment for VPI

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 state fiscal year (SFY) 2010 through 2012 Appropriations Act provided $67,607,769 for the first year of the biennium and $68,300,290 for the second year. In SFY 2013, total estimated funding for the program in the 2012 through 2014 biennial budget was $64,953,097 for 2013 and $68,569,714 for 2014. These monies come from the Virginia Lottery Proceeds Fund through the Virginia Department of Education.

Funds are granted based on an allocation formula that takes into account the number of four-year-olds at risk who are served in each locality for full- 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 pro rata portion of a full-day, school-year program. Local matching funds are required based on a composite index of the 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 http://www.doe.virginia.gov/instruction/early_childhood/preschool_initiative/appropriation_act_language.pdf.

Under the *Guidelines for the Virginia Preschool Initiative Application*, localities seeking these funds are required to develop a written local plan for programs that include five services:

1. quality preschool education,

2. parental involvement,

3. comprehensive child health services

4. social services, and

5. transportation.

They are expected to coordinate resources and funding streams to serve the greatest number of eligible children. **Local matching funds** are required, and the plan must be submitted by June 15 of each year. The Virginia Department of Education (VDOE) is authorized to expend

unobligated balances for grants to qualifying school divisions for one-time expenses (other than capital) related to program start-up or expansion.

In 2008–2009, 112 school divisions participated in the program. In 2012–2013, that number grew to 119, but there were 12 more eligible school divisions that did not participate. That number has remained fairly consistent over the last 5 years. According to the VDOE's *Briefing Report*, reasons for non-participation included

➢ difficulty or inability to obtain local matching funds,

➢ insufficient space to house additional classrooms, and

➢ a small number of eligible students, resulting in a lack of cost-effectiveness to operate the program.

The same report notes that 11 school divisions left 100 or more slots unused in SFY 2013. In FFY 2013, 5 counties were ineligible for funding because they were serving as many or more students through Head Start than the estimated number of children eligible for services through the VPI funding formula.

5. Monitoring, Evaluation, and Outcomes of VPI

The Virginia Department of Education (VDOE) and the Council on Child Day Care and Early Childhood programs provide **technical assistance** in the administration of the grant program and to localities to ensure a comprehensive, coordinated, quality preschool program is developed. VDOE is required to provide interested localities information on service-delivery models and methods of coordinating funding streams to maximize funding with existing services. Technical assistance is prioritized for localities where the majority of four-year-olds at-risk are not served.

The January 2013 *Briefing Report* provides recent program-impact data. Results from the fall of 2012 Phonological Awareness Literacy Screening (PALS) administered to kindergarten students show that only 7 percent of children who participated in VPI needed further intervention when they entered kindergarten versus 20 percent who had no pre-kindergarten experience. The VPI results were consistent with those for children who participated in other pre-kindergarten programs, after which only 8 percent required further intervention.

D. IDEA Part B's Preschool Services

The Individuals with Disabilities Education Improvement Act (IDEA) guarantees a free, appropriate public education to all eligible children with disabilities. The VDOE website (http://www.doe.virginia.gov/special_ed/index.shtml) concisely identifies the steps in the special education process. These apply to both preschool and K–12 education and are as follows:

1. identification and referral,

2. evaluation,

3. determination of eligibility,

4. development of an Individualized Education Program (IEP) and determination of services, and

5. reevaluation.

There are timelines for each step in order to prevent delays, and procedural safeguards are provided to families. The services and placement of students with disabilities who need special education, including preschool, are developed through the Individualized Education Program (IEP) process, which is the responsibility of local public school divisions.

1. Preschool Screening and Eligibility for Part B

In Virginia, **Part B preschool services** are available to eligible children with disabilities from age 2 to age 5. While the federal Individuals with Disabilities Education Improvement Act of 2004 (IDEA) mandates that such services be available starting at age 3, 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 2 and 3. A separate eligibility determination is required for Part B services from that required for Part C. For detailed information on screening, eligibility and local public school division responsibilities for identifying children who may be eligible for preschool services, see page **66**, covering Part B Special Education for K–12. The Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton) offers free services to families with deaf, blind or deafblind children from birth to age 3 as part of the outreach program at the school. Families must live within a 50-mile radius of the school to receive these services.

Eligibility criteria for children seeking preschool services do not differ for children who may receive preschool services through the program operated by VSDB-Staunton. There are, however, additional program admission criteria that are independent of those for determining if a child is eligible for services by a local school district. A student's Individualized Education Program (IEP) team makes the decision, based on the child's needs, whether services should be received at VSDB-Staunton. That decision is reassessed annually. For additional information, go to http://vsdb.k12.va.us/Preschool/.

2. Access to and Use of Part B Preschool

Preschool services for eligible children are delivered through local school divisions, formally known as local education agencies (LEAs), and the state-operated programs at the VSDB-Staunton. Public school divisions must provide a full continuum of services, from the 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.

3. Available Part B Preschool Services

Part B preschool special education focuses on developing age-appropriate social and emotional skills, including social relationships; the acquisition and use of knowledge and skills, such as early language and early literacy; and the use of appropriate behavior 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 beginning on page **74** of this chapter.

The Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton) offers preschool services for children who are deaf, hard of hearing, blind, vision impaired, or deafblind. For children who are deaf and hard of hearing, the **VSDB-Staunton Audiology Clinic** is an approved diagnostic testing site for Virginia's Universal Newborn Hearing Screening Program coordinated through the Virginia 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.

VSDB-Staunton's preschool services focus on hands-on, developmentally appropriate instruction designed to achieve maximum development of language, cognition, social and 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. 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. Siblings without disabilities are encouraged to attend the preschool to provide a more inclusive and language-enriched environment.

4. Cost and Payment for Part B Preschool

See page **80** of this chapter for costs, payments, and program revenue and expense information related to Part B.

5. Monitoring, Evaluation, and Outcomes of Part B Preschool

By statute and regulations, the Virginia Department of Education (VDOE) has the principal responsibility for monitoring the implementing Part B of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA) in the Commonwealth. VDOE's **Division of Special Education and Student Services** oversees school divisions; state-operated programs, including 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. This implementation and oversight role includes preschool programs. For more specific information on monitoring processes and program results, go to page **84**.

Virginia's *State Special Education Performance Reports* provides statistics (statewide and by school division) on **outcomes** that the federal Office of Special Education Programs (OSEP) requires states to report annually. The **Table 9** shows the targets and results for federal Indicators 7A–C, Preschool Outcomes, which measure the percent of preschool children with Individualized Education Programs (IEPs) who demonstrate

A. improved social/emotional skills (including social relationships),

B. acquisition and use of knowledge and skills (including early language communication and early literacy), and

C. use of appropriate behaviors to meet their needs.

Table 9. Special Education Performance on Indicator 7: Preschool Outcomes			
School Year	**Indicator 7A Social and Emotional Target/Actual**	**Indicator 7B Knowledge and Skills Target/Actual**	**Indicator 7C Appropriate Behavior Target/Actual**
Percent who entered below age expectations			
2009–2010	83.0 / 85.8	84.0 / 90.3	83.0 / 86.9
2010–2011	86.0 / 87.7	90.0 / 92.0	87.0 / 89.3
2011–2012	86.0 / 88.1	90.0 / 92.3	87.0 / 89.1
Percent functioning within age expectations			
2009–2010	56.0 / 58.5	39.0 / 44.9	62.0 / 64.1
2010–2011	56.0 / 60.4	39.0 / 46.4	62.0 / 65.9
2011–2012	56.0 / 57.9	39.0 / 45.6	62.0 / 64.8

Source: *State Special Education Annual Performance Reports*, 2010, 2011, 2012, and 2013.

Targets have been routinely exceeded for all three school years with respect to the preschool indicators reported to the Office of Special Education Programs (OSEP). According to VDOE, targets are set for six-year periods but revised earlier if appropriate. In terms of children functioning within age expectations following preschool, progress in both 2011–2012 and 2012–2013 was slightly lower in all three indicators than in FFY 2010–2011.

Preschool improvement activities conducted in collaboration between school divisions and state early intervention staff and reported in the Part B *2011–2012 Annual Performance Report* included but were not limited to the following:

➢ Providing training and technical assistance on how to conduct progress reviews, use appropriate assessment instruments, and maintain and report student data.

➢ Providing training and technical assistance on practicing inclusion, developing functional IEP goals, teaching social and emotional skills, and using curriculum frameworks.

➢ Developing technical assistance materials related to outcomes for preschool students, including webinars with Part C staff and documents with answers to frequently asked questions about child assessment and progress sharing.

➢ Continuing work with the National Early Childhood Technical Assistance Center and Early Childhood Outcome Center.

➢ Disseminating guidance and information on issues related to transitioning from Part C to Part B services.

The following section covers services and supports available to students with disabilities in **K–12** who require special education, including the transition services needed to achieve successful post-school outcomes.

E.   IDEA Part B's K–12 Special Education Services

The Individuals with Disabilities Education Improvement Act (IDEA) defines **"special education"** as

> *specially designed instruction, at no cost to the parent(s), to meet the unique needs of a child with a disability, including instruction conducted in a classroom, in the home, in hospitals, in institutions, and in other settings and instruction in physical education.*

The term includes each of the following when it meets the requirements of the definition of special education (§ 22.1-213 of the Code of Virginia; 34 CFR § 300.39):

➢ speech-language pathology services or any other related service if that service is considered "special education" rather than a related service under state standards;

➢ vocational education; and

➢ travel training.

Also defined by IDEA, "specially designed instruction" means adapting, as appropriate to the needs of an eligible child, the content, methodology, or delivery of instruction [34 CFR § 300.39(b)(3)] to:

➢ address the unique needs of the child that result from the child's disability, and

➢ ensure the child's access to the general curriculum, so the child can meet the educational standards that apply to all children within the jurisdiction of the public school division.

While not a focus of this chapter, there are numerous students with disabilities who do not require special education services through an Individualized Education Program (IEP) but may need **accommodations** to be successful. Examples of accommodations include where the student sits in the classroom, the amount of time available for tests, having certain tests read, the use of a calculator, and more. These students may be eligible for a **504 plan** under Section 4 of the amended Rehabilitation Act of 1973.

The 504 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. For additional information on requirements for 504 plans in Virginia schools, go to http://www.doe.virginia.gov/special_ed/tech_asst_prof_dev/section_504_implementation_va.pdf.

1. K–12 Screening and Eligibility for Part B Special Education

Virginia children and young adults with disabilities (hereafter referred to as children or students) who have not yet reached their 22nd birthday may be eligible to receive special education and related services provided by public school divisions and 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 *2010 Parent's Guide to Special Education*, while dated, provides a clear, user-friendly, and comprehensive guide to the special education process. The guide can be found at http://www.doe.virginia.gov/special_ed/parents/index.shtml.

Outreach activities by school divisions, known as **Child Find**, are the first step in determining eligibility for Part B services, including early childhood preschool services. Through Child Find, Virginia public school divisions must identify, locate, and evaluate children with disabilities who need special education and related services, regardless of citizenship, immigration status, residence, or where they may be receiving services. Specific Child Find activities range from broad-based public awareness campaigns to individual screenings that evaluate whether children need specialized educational services.

Parents may contact their child's teacher or other school professional to request an evaluation. School professionals may ask at any time for a child to be evaluated to determine if the student has a disability that requires specialized education. **School-based teams** are responsible for making referrals for evaluation. These teams focus on avoiding unnecessary referrals to special education. For more information on Child Find processes as well as the role of school-based teams, see http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf.

Evaluations for special education and related services require written parental consent. State regulations require evaluations to be completed within 65 business days after receipt of the referral for evaluation by the school division's special education administration, with exceptions for when (1) a parent refuses to make the child available for evaluations, (2) the parent and school division agree that additional data are required, or (3) a child transfers to a new school division mid-evaluation. An eligibility evaluation must address all areas related to the child's suspected disability. Evaluations are multi-disciplinary and typically involve more than one professional. Based on the results, 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) and federal implementing regulations, which can be found at http://www2.ed.gov/legislation/FedRegister/finrule/2006-3/081406a.pdf. The child must also meet the expanded definitions within the State Regulations Governing Special Education Programs for Children with Disabilities, located online at http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf.

Once determined eligible, students must be **reevaluated** at least every three years to assess their continued eligibility for services. Reevaluations may not occur more than once a year unless the parent and school division both agree. Reevaluations can be based on existing data, or if existing data are insufficient, the team can gather new data.

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. Public school divisions 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. Independent evaluations must be considered by the school division.

As with Part B preschool services, there are additional program admission criteria for services operated by the **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)** that are independent of the special education eligibility process. The student's IEP team determines whether the student should attend VSDB-Staunton based on individual need and reassesses that decision annually.

2. Access to and Use of Part B Special Education

Once a student is determined to be eligible for special education services, an **Individualized Education Program (IEP)** must be developed for the student within 30 calendar days. The IEP specifies the special education and related services to be received and identifies the settings in which those services will be delivered.

Parents, teachers, other school staff members, and the student, when appropriate, develop the IEP together. The IEP team must examine the student's unique needs and strengths to design an educational program that will (1) support the student's involvement and progress in the general curriculum to the maximum extent possible, and (2) ensure equal access to programs and services. In Virginia, the general curriculum is the **Standards of Learning (SOL)** curriculum. For more information on IEP requirements, go to http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf.

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 placement options"** available to them. LRE means that students with disabilities:

➢ have the right to be educated with their peers who do not have disabilities and

➢ 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.

The continuum of services 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, including the Virginia School for the Deaf and the Blind at Staunton.

A critical part of the IEP process involves **assessment** and **diploma** options. 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, described below.

The choice of assessment tracks affects the type of diploma that students with disabilities can obtain and, therefore, their postsecondary future. The goal is for the vast majority of students, including those with disabilities, to obtain a **Standard** or **Advanced Studies diploma**. Both of these diplomas:

➢ are accepted by institutions of higher education,

➢ enable students to access financial aid for college or vocational school, and

➢ are considered to be a "high school diploma" by employers.

Students with significant disabilities, particularly cognitive disabilities, who are not achieving academically at grade-level standards and are participating in the **Alternate SOL**, may receive a **Special diploma**, which simply denotes that they have completed their program of study,

although efforts are underway by VDOE to make this diploma more skills-related and, thus, more meaningful.

Prior to the 2013–2014 school year, students with disabilities also had been eligible for a **Modified Standard diploma**. This diploma was intended for students with disabilities who, according to the VDOE website, were "unlikely to meet the credit requirements for a Standard diploma." Decisions regarding the pursuit of this diploma were made by the IEP team at any point after the student left the 8th grade. It is important to note that the Modified Standard diploma was not recognized by most institutions of higher education or by most employers, and it did not enable students to access financial aid.

On July 26, 2013, the VDOE issued Superintendent's Memo 191-13 to announce the amendment of the Code of Virginia (§§ 22.1-253.13:4 and 22.1-254) by the 2012 General Assembly to strengthen postsecondary education and workplace readiness opportunities for all children. The code change eliminated the Modified Standard diploma beginning with students entering the 9th grade in 2013. The legislation requires the Virginia Board of Education to make provisions for students with disabilities to earn a Standard diploma through **credit accommodations**. For more information, go to http://leg1.state.va.us/cgi-bin/legp504.exe?121+ful+CHAP0454.

VDOE issued guidance on credit accommodations for students with disabilities in July 2013. See http://www.doe.virginia.gov/instruction/graduation/credit_accommodations.shtml for more detailed information. The types of accommodations available to students with disabilities (determined by the student's IEP team or 504 committee) can include but are not limited to:

➢ alternative courses to meet the standard credit requirements,

➢ modifications to the requirements for locally awarded, verified credits,

➢ additional tests approved by the Board of Education for earning verified credits,

➢ adjusted cut scores on tests for earning verified credits, and/or

➢ allowance of work-based learning experiences through career and technical education (CTE) courses.

It will likely take several years to determine if credit accommodations will succeed in terms of meeting the goal of enabling more students with disabilities to obtain a Standard diploma. Information on diploma and certification options can be found at http://www.doe.virginia.gov/instruction/graduation/other_diploma.shtml.

Virginia's Alternate Assessments include the **Virginia Grade Level Alternative (VGLA)**, the **Virginia Substitute Evaluation Program (VSEP)**, the **Virginia Modified Achievement Standards Test (VMAST)**, and the **Virginia Alternate Assessment Program (VAAP)**.

The **VGLA** was designed for students whose disabilities prevent them from accessing Standards of Learning (SOL) content area assessments due to the format of the tests. It is

available to students in grades 3 through 8 in specified content areas. Students compile a collection of work samples to demonstrate performance on grade-level content as presented in the SOL test blueprints. Decisions about VGLA participation are made on a test-by-test and individual basis. The VGLA is being phased out.

The **VSEP** is an alternative method of assessing students who, by the nature of their disability, are unable to participate in the SOL assessments even with testing accommodations. The VSEP provides eligible students with the opportunity to earn the requisite verified credits for a Standard or Advanced Studies diploma or to meet the requirements of a Modified Standard diploma through non-traditional means. It is available for SOL end-of-course tests and provides eligible students with the opportunity to earn the required verified credits or a Standard or Advanced Studies diploma. There are a number of other specified circumstances in which certain students may be eligible for the VSEP. Decisions are made on a test-by-test and individual basis.

The **VMAST** is an alternate assessment based on modified achievement standards. It was designed to make tests more accessible to students with disabilities who are instructed in grade-level content but are not likely to achieve proficiency as quickly as their peers without disabilities. The curriculum is the same, but the achievement expectations are modified. The VMAST also is being phased out and, beginning in 2014–2015, scores of students participating in the VMAST will not be included in the participation or the pass-rate calculations for federal accountability.

The **VAAP** is an alternative assessment based on alternative achievement standards. It was designed to evaluate the achievement of students with **significant cognitive disabilities**. Participation is limited and determined by each student's IEP team. Students participating in the VAAP cannot obtain a Standard diploma, making this a significant decision for families. Beginning in third grade, the VAAP is available to students who are working on reduced academic standards called **Aligned Standards of Learning (ASOL)**.

Since the VAAP's inception, and through the 2013–2014 school year, a collection of work samples have been compiled and submitted annually to demonstrate student achievement. However, in 2014–2015, Virginia will implement a new, online alternate assessment program for students with significant cognitive disabilities to replace the current "Collections of Evidence" in reading, writing, and mathematics. The online alternate assessment is being developed by the **Dynamic Learning Maps (DLM) Alternate Assessment System Consortium**.

The DLM Assessment (developed under a US Department of Education grant) is based on research on how students with significant cognitive disabilities learn. The system is designed to map a student's learning throughout the year using items and tasks that are embedded in daily instruction, so that testing occurs as part of instruction. The core belief is that all students should have access to challenging grade-level content. Essential elements of the DLM include (1) linkage to the SOL curriculum, (2) statements on how the content builds skills that provide a

bridge for students to achieve grade-differentiated expectations, and (3) appropriate challenge and rigor.

If an IEP team determines that a student's disability prevents him or her from participating in the SOL Assessments even with accommodations, the team is required to provide a written justification and include supporting documentation to explain its determination. The VDOE website provides comprehensive information on Virginia's Assessment program. See the following web pages.

Testing participation and inclusion:
http://www.doe.virginia.gov/testing/participation/index.shtml

Standards of Learning (SOL) scoring: http://www.doe.virginia.gov/testing/scoring/index.shtml

Alternative assessments:
http://www.doe.virginia.gov/testing/alternative_assessments/index.shtml

Substitute tests for verified credits needed to obtain a Standard or Advanced Studies diploma: http://www.doe.virginia.gov/testing/substitute_tests/index.shtml

Once the team agrees on an IEP, the **public school division** is responsible for ensuring that it is carried out as written, that progress is achieved, and that parents are routinely informed of their child's progress. Special education and related services can only be terminated if a student:

➢ graduates with a Standard or Advanced Studies (high school) diploma,

➢ reaches his or her 22nd birthday,

➢ has been reevaluated (with parental consent) and determined to no longer be eligible for services based on existing or new data and assessments, or

➢ the parent or adult student withdraws consent for services.

Parents may or may not agree with a student's IEP, the location in which services will be delivered, or other decisions regarding the provision of services, assessments, and the like. Further discussions with the IEP team often resolve disagreements. If this is not effective, there are formal dispute resolution practices available. For more information on dispute resolution, see **Monitoring, Evaluation, and Outcomes of Part B** below.

VDOE annually collects data from the school divisions on the number of children receiving services on the same day of each year. This **December 1 Child Count** is a "point-in-time" census and does not represent the total number of children served during the year. **Table 10** shows the number of children with disabilities receiving special education and related services statewide by disability category from 2009 through 2013.

Table 10. Students receiving Special Education Services in December Child Counts					
VDOE Disability Category	2009	2010	2011	2012	2013
Autism	10,092	11,703	13,141	14,624	15,859
Deafblind	20	25	34	29	32
Developmental delay	13,226	10,425	10,911	11,191	10,982
Emotional disturbance	10,125	9,589	9,474	9,414	9,051
Hearing impairments	1,489	1,473	1,455,	1,449	1,404
Intellectual disability	9,913	9,934	9,572	9,424	9,220
Multiple disabilities	3,139	3,325	3,461	3,464	3,400
Other health impairments	27,811	28,703	29,530	30,261	31,006
Orthopedic impairment	912	905	834	794	784
Severe disabilities	796	465	199	*	*
Specific learning disabilities	57,566	56,971	55,690	54,742	54,030
Speech/language impairment	29,771	28,974	27,354	26,093	25,040
Traumatic brain injury	402	390	395	396	419
Vision disability	612	618	598	594	592
TOTAL	165,874	163,500	162,648	162,475	161,819

Source: Virginia Department of Education's December Child Count for 2009, 2010, 2011, 2012, and 2013 for school
divisions and state-operated programs.
*The category of "severe disabilities" is no longer used in the Child Count system. It was not a federal *IDEA*
category. The VDOE and Board of Education determined that this category caused confusion in the
identification process and was an area in which Virginia could align better with the federal categories.

The December Child Count census indicates that the number of children receiving special education services has been on a slow but steady decrease, declining 2.4 percent since 2008. The number of children counted in the **"developmental delay"** category decreased as expected since changes in state special education regulations reduced the age limit for this category from age 8 to age 6 in 2010.

The highest increase was in the category of students with **"autism."** Between 2009 and 2013, the number of children categorized educationally has having autism rose by more than 57 percent. The category of children classified as having **"specific learning disabilities"** has been declining since 2009, and the number of children with **"other health impairments"** has

increased. "Other health impairments" and the **"multiple disabilities"** categories may be capturing students who were formally classified as having **"severe disabilities."** It is important to note that a decline in educational classification does not mean that the student does not have a specific disability just that he or she is not being educationally classified under this disability category.

The transition of students with disabilities to higher education, employment, or other training continues to be an important area being addressed by VDOE and local school divisions. The 2011 edition of this *Assessment* pointed to a slightly declining proportion of students within the official eligibility range for transition services—those between **age 14 and 22**. Their numbers decreased 3.6 percent from 2004 through 2009. However, during that same time period, students closest to transition, those between **age 18 and 22**, i.e., seniors in high school, increased by 21 percent.

Figure 9 shows the growth in the number of students with disabilities between the ages of 18 and 22 from 2009 through 2012. During that time period, the number of students closest to transition grew a little over 13 percent. This increase in numbers since 2009 could be the result of a variety of scenarios, including the possibility that more students are remaining in school beyond age 18. There was a slight decline in 2013 from the previous year.

Figure 9. Students with Disabilities between Age 18 and 22
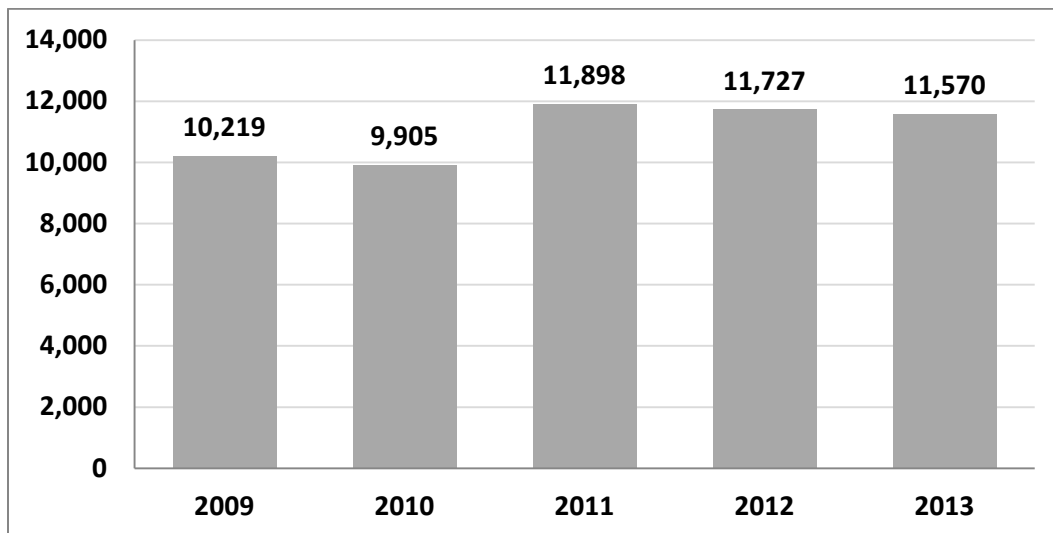
With respect to the entire transition age span (ages 14 to 22), the largest increase was, expectedly, students with "autism." The jump from 2,690 students in 2009 to 5,085 students in 2012, as shown in **Figure 10** below, represents an 89 percent increase. The "other health impairment" category has increased from 12,510 students to 13,864 students, a 10.8 percent increase, while the number of students in transition with an educational label of "intellectual disability" or "specific learning disabilities" has declined. Overall, the counts represent a large number of students, many of whom will require specialized services and supports to successfully navigate post-high-school endeavors.

Figure 10. Child Counts of Transition-Age Students (between 14 and 22) by Targeted Disability Categories*
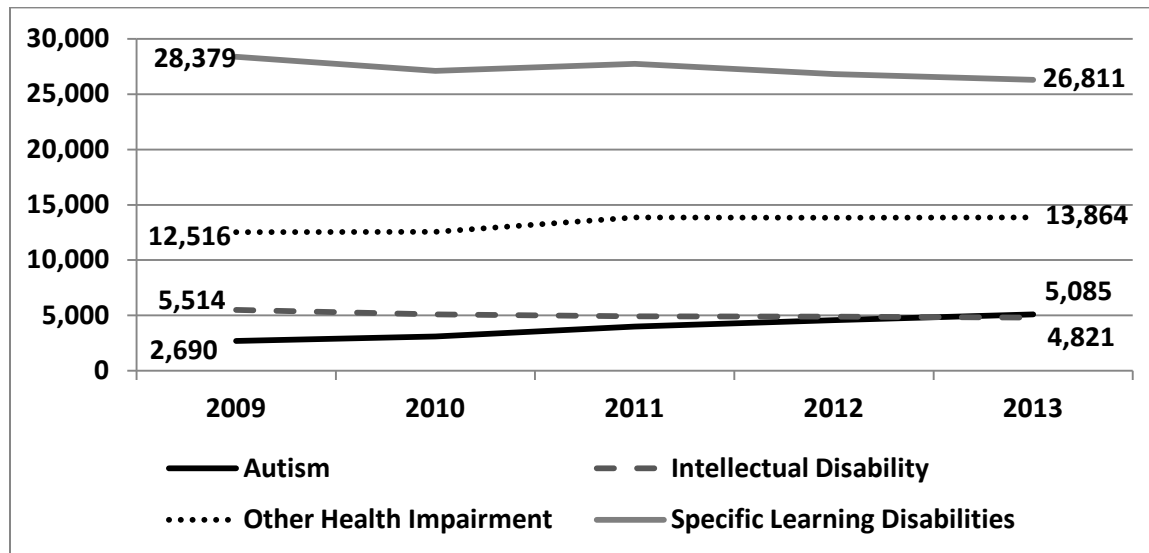
* As of the December 1, 2011 Child Count, students are counted by grade, not by age. The 2008, 2009, and 2010 counts include students ages 14 through 22. The 2011 through 2013 counts include students in 8th through 12th grades. Students with disabilities who remain in school through age 22 are counted as 12th grade students.

3. Available Part B Special Education Services

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**. Additionally, there are a host of related services that may be required for a student with a disability to achieve academically, regardless of placement. For information on these services, go to http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf.

Other developmental, corrective, or supportive services may also be provided if they are 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, George Mason University operates the Virginia Accessible Instructional Materials (AIM) program. There, textbooks and other instructional materials are transferred into various formats to ensure they are accessible. A list of available resources can be found at http://kihd.gmu.edu/aim/policies. These are available to all school divisions at no charge.

The Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton) provides training in a student's disability areas as well as concentrated instruction in core academic areas that adhere to the Virginia Standards of Learning (SOL). Within VSDB-Staunton is the **Department for the Blind**, a K–12 residential program designed for students with blindness, visual impairments, and multiple disabilities. The program is designed to work collaboratively with families, local school divisions, and the Department for the Blind and Visually Impaired.

In addition to core academic instruction, the school provides additional programs and supports that include but are not limited to: highly trained Teachers of the Visually Impaired in each content area, technology-enhanced classrooms, career exploration opportunities, access to specialized accommodations, such as Braille, large print, Victor Reader Streams, BrailleNote, CCTV, tactile instructional materials, computer labs, and a variety of low-vision aids. Also key are Braille, technology, and orientation and mobility instruction. For additional information, go to the VSDB website at http://vsdb.k12.va.us/Blind/.

VSDB-Staunton's **Department for the Deaf** provides services leading to independence for students with severe to profound hearing impairments. The program must adhere to all state standards in content courses. In addition, it provides additional programming and supports that include but are not limited to, direct instruction in American Sign Language (ASL) and English using a bilingual approach; teachers who are highly qualified to teach deaf and hard-of-hearing students with and without additional disabilities; curricula tailored to meet all students' needs; specialists in ASL, audiology, autism, speech and language therapy, occupational therapy, physical therapy, recreational therapy; and access to technology such as Smart Boards, iPads, videophones, laptops, and visual-audio safety alarms. For additional information on academic and extracurricular activities, go to http://vsdb.k12.va.us/Deaf/.

The 2013 General Assembly added a provision to the Code of Virginia (§ 22.1-217.02). This provision requires that when developing an Individualized Education Program (IEP) for a child identified as deaf or hard of hearing, the IEP team must consider the:

➢ child's individual communication mode or language;

➢ availability of a sufficient number of age, cognitive, academic, and language peers of similar abilities if the parents so desire;

➢ availability of adult models who are deaf or hard of hearing and proficient in the child's communication mode or language;

➢ provision of direct and ongoing language access to teachers of the deaf and hard of hearing, interpreters, psychologists, and other professionals who are proficient in the child's primary mode or language;

➢ provision of communication-accessible instruction, school services, and other components of the educational process as well as equal opportunity to participate in advanced coursework, technical education, and academic classes as determined by the IEP team;

➢ provision of appropriate assistive technology; and

➢ that VSDB-Staunton may be the least restrictive environment for the child.

The new code section also stipulates that students who are deaf or hard of hearing cannot be denied the opportunity for instruction on a particular communication mode or language and can receive instruction in more than one communication mode or language (e.g., American Sign Language; English-based manual, or other sign systems; oral, aural, speech-based training; spoken and written language; and communication via assistive technology).

Over the last five years, policymakers have emphasized improving services to individuals with **Autism Spectrum Disorders** (ASDs). In 2012, the General Assembly passed House Bill 325. The new code section (§ 22.1-298.3), effective September 1, 2014, requires each school board to ensure that aides assigned to work with a teacher who has primary oversight of students with ASDs receive training in **student behavior management** within 60 days of being assigned to work with the student. The school boards also were authorized to provide training to other employees such as transportation employees. The Virginia Department of Education was required to provide training standards. These standards were adopted in January of 2013 and can be found in the document, *Training Standards for Paraprofessionals Assigned to Work with a Teacher who has Primary Oversight of Students with Autism Spectrum Disorders*. The training is available online, free of charge to school divisions at http://www.vcuautismcenter.org/documents/parapro_training_standards.pdf.

In the fall of 2013, the Joint Commission on Health Care released a report on its study of the transition needs of students with ASDs. Numerous programs and initiatives have been undertaken to meet the needs of these students. In 2010, Virginia Commonwealth University established the **Autism Center for Excellence (VCU-ACE)** with funding from the Virginia Department of Education. VCU-ACE focuses on research, training, technical assistance, and collaboration with school divisions, universities, families, and professionals.

Another option, provided by Commonwealth Autism Service (CAS), is an "embedded teaching model" whereby CAS provides staff to work directly with students in school divisions through a contractual arrangement. CAS staff uses the "competent learning model," which focuses on learner assessments, supplemental curricula with effective teaching strategies, staff training with coaching and collaborative consultation, and coaching and implementation guidelines. More information is available online at http://www.autismva.org.

The **Virginia Autism Council (VAC)** is an interagency collaboration. Its role is to develop best practice tools, identify and address systems gaps, and gather and disseminate knowledge. The VAC works in affiliation with VCU-ACE to develop and deliver training for ensuring skill competency in the professionals working with students with autism. More information is available at http://www.autismtrainingva.org.

Transition planning is a critical component of post-high-school success in higher education, training, and employment. The Individuals with Disabilities Education Improvement Act (IDEA) defines 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 is 16, the Virginia Department of Education (VDOE) continues to encourage early transition and has maintained **age 14** as the age at which transition planning should begin and be included in the IEP.

Like any other part of the Individualized Education Program (IEP), 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 goals 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.

Primary responsibility for planning and implementing transition services rests with the local public school divisions, but other state and local agencies and organizations may be called on to assist and help coordinate services. Examples of relevant agencies that may be involved with transition planning include but are not limited to: community services boards, public and private case managers, centers for independent living, the Department for Aging and Rehabilitative Services (DARS), the Department for the Blind and Vision Impaired, Social Security, and work-incentive planning programs. The VDOE has significant information on transition planning and resources on their website at
http://www.doe.virginia.gov/special_ed/transition_svcs/index.shtml.

In 2014, the **Behavioral Health Care Subcommittee of the Joint Commission on Health Care** released its study report: *Needs of Individuals with Autism Spectrum Disorder Transitioning from Secondary Schools,* which is available at http://jchc.virginia.gov/reports.asp. The study found that students with autism had poorer postsecondary outcomes than students with other disabilities. However, most of the other challenges cited are well known and applicable to the broader population of students with developmental and other disabilities. These include:

➢ inadequate interagency coordination (state and local) and inadequate participation by community partners (listed above) in the transition planning process;

➢ inadequate preparation for going from an entitlement (IDEA) system to an eligibility system (e.g., for Medicaid waivers, vocational rehabilitation services, etc.);

➢ family and student difficulty in understanding and navigating the adult system;

➢ waiting lists for many adult services;

> ➢ lack of case management for individuals not receiving waiver or DARS services; and

> ➢ inadequate recognition of student abilities and strengths, leading to academic tracking and, therefore, limited higher education and competitive employment opportunities.

The Department for Aging and Rehabilitative Services (DARS) administers the **Postsecondary Education/Rehabilitation Transition (PERT)** program at the Woodrow Wilson Rehabilitation Center (WWRC) in Fishersville. This program is available to all local public school divisions, although not all choose to participate. PERT has an advisory committee that includes parents and former participants. Local PERT teams work with participating school divisions to identify appropriate students, then plan and implement educational and rehabilitative services based on the results of student evaluations.

Students must meet both PERT and WWRC eligibility and admission requirements. These can be found at http://wwrc.virginia.gov/pert.htm. PERT has two components. 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' Individualized Education Programs (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 workplace assessment have the opportunity to further refine their vocational interests and skill areas, develop good work habits, and clarify their vocational goals. PERT also carries out other training and assessment activities that are regional or locally based.

In SFY 2013, there were 452 initial evaluations, 61 situational assessments, 21 transition academies, and 7 summer assessments conducted. This combined total of 541 assessments is up about 5.5 percent from 2012 when 513 evaluations were conducted. In the *SFY 2012 PERT Annual Report,* it was noted that the 2012 numbers fell short of those served in 2011 when more funds were allocated to PERT. It was also noted that during that fiscal year (and continuing into SFY 2013), DARS was operating under an Order of Selection due to funding that was insufficient to serve all who were eligible for services. It closed all categories, limiting PERT participation to students already on DARS caseloads. Looking at just initial evaluations and situational assessments, numbers are consistent with SFY 2009 in which PERT conducted 438 initial evaluations and 59 situational assessments. The report is available at http://www.vadrs.org/formscabinet/Formscabinet.asp?pass=et1&t1=WWRC&pg=.

Students in 10th through 12th grade (and adults who are considering resuming their education) who are blind or vision impaired 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 high school students who are blind 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. DBVI also 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.

VDOE has devoted significant resources to promote best practices and provide technical assistance for transition. It offers all school divisions an opportunity to participate in the **Virginia Transition Outcomes Project**, which provides a system that school divisions can use to consistently track IEPs and capture outcome data to improve transition services. It sponsors an annual transition conference and provides 16 regional transition specialists to support local public schools. The Transition Outcomes Project was expanded statewide, and VDOE began participating in National Transition Communities of Practice.

The Department continues to grow its successful **I'm Determined** project. This program promotes direct instruction, models, and opportunities to practice skills associated with self-determined behavior beginning in elementary school and continuing throughout the student's school career. According to VDOE, as of 2012, 50 school divisions were participating. The program's website averages 800 unique visitors a week (60 percent new and 40 percent returning). Other states are using the I'm Determined materials and I'm Determined apps are now available for free in the Apple iTunes store. In June 2013, the 7th annual Youth and Parent Summit had 190 students and 170 parents in attendance. VDOE also contributes financially to the Virginia Board for People with Disabilities' **Youth Leadership Forum** for rising high school juniors and seniors with disabilities. This annual, week-long program builds leadership and advocacy skills in students and helps them to prepare for their post-high-school futures.

In September 2013, the **Richmond Career Education and Employment Academy**, a new charter school, opened its doors to 10 students. The program can serve up to 40 students in grades 8 through 12. The purpose of the program is to provide

> *an intensive functional life skills curriculum that is oriented toward career education and competitive employment for Richmond students, ages 14 to 21.*

The students all have significant cognitive disabilities and significant academic challenges as well as challenges with communication and social skills. Participants are likely to leave school with a Special diploma and likely to experience challenges in developing the skills needed to be competitively employed or engaged in other meaningful postsecondary activity. Anticipated outcomes of this program, which operates within a Richmond City public high school and emphasizes community engagement, is competitive employment, enrollment in a meaningful postsecondary program, or other postsecondary outcomes desired by the student. Outcomes will be available in several years. More information is available online at http://www.doe.virginia.gov/instruction/charter_schools/charter_schools.shtml.

Despite a number of successful initiatives, transition services continue to be an area of concern for students and their parents. More importantly, **student outcomes** in the aggregate have not been positive (see the **Monitoring, Evaluation, and Outcomes of Part B** section of this chapter). 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 or higher education options.

In response to many of these challenges, but in particular to the poor post-school outcomes for students with disabilities, in 2013 VDOE announced that it would fund a **Center for Transition Innovations (CTI)**. The Center, which was officially established on April 9, 2014, is a collaborative venture between the VDOE and the VCU School of Education's Rehabilitation and Research and Training Center (RRTC). It will serve as a statewide resource to support school divisions; vocational, rehabilitation, and other service providers; and students with disabilities and their families as they work together to facilitate successful transitions for students with disabilities who are leaving school. The Transition Center will focus on information dissemination through a website, online education modules, webcasts, webinars, and online monthly transition chats for teachers, families, and others. The Center will also help the VDOE implement best practice models such as Project SEARCH and Start on Success. It will develop topical papers and conduct transition-related research and program development.

4. Cost and Payment for Part B Preschool and K–12 Special Education

Table 11 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 SFYs 2011 and 2012. Total expenditures for SFY 2012 increased approximately 1.47 percent over SFY 2011 expenditures and has risen 25.2 percent since SFY 2006 when expenditures were $1,644,878,544.

Table 11. Virginia Special Education Expenditures by Source and SFY				
Expenditure Funding Source	**2011 Amount**	**2011 Share**	**2012 Amount**	**2012 Share**
Local funds	$1,201,254,137	59%	$1,283,107,624	62%
State appropriations to localities	467,750,206	23%	456,106,529	22%
Federal payments to State, IDEA Part B	360,339,369	18%	319,932,402	16%
Section 619 (preschool)	6,330,001	–	6,150,222	–
Section 611 (school-age)	202,724,528	–	256,052,869	–
Other federal funding (AARA stimulus funds)	151,275,840	–	57,729,311	–
TOTAL	$2,029,343,712	100%	$2,059,146,555	100%

Source: Virginia Department of Education-Division of Special Education and Student Services, October 2013. Note that the "Federal payments to State" category is comprised of the Section 619 and 611 subcategories.

As shown in **Table 12**, total federal funding for special education in SFY 2014 is down 5.1 percent from 2013, a decrease of about $15 million.

Table 12. Federal Funding for Special Education in SFY 2014			
IDEA Part B Funds	**SFY 2012**	**SFY 2013**	**SFY 2014**
Section 619 (preschool)	8,967,283	8,952,199	8,537,211
Section 611 (school-age)	279,025,194	281,531,321	266,858,779
TOTAL	287,992,477	290,483,520	$275,395,990

Source: Virginia Department of Education, Division of Special Education and Student Services, October 2013.

State funding to local school divisions is determined by the **Standards of Quality (SOQ) funding formula** and school divisions' 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 1 Child Count. The State's share of this cost is determined according to the SOQ funding formula, which includes a consideration of the locality's composite index of its 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 depends 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 co-mingled with all other state appropriations to localities for education.

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.

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.

Funding for special education teachers of **children with vision impairments** in the public schools has been a longstanding challenge called to the attention of the General Assembly in a 2004 report by the **Virginia Department for the Blind and Vision Impaired:** *Options to Address Salary Reimbursement to Localities for Special Education Teachers of the Visually Impaired.* The report stated, in part,

> *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.*

The situation was addressed by the 2013 General Assembly, which passed legislation to include students who are visually impaired in the SOQ. They also transferred General Funds from the DBVI to the Virginia Department of Education's SOQ. In the past, DBVI had distributed the General Funds to school divisions as a partial salary reimbursement for the teachers of the visually impaired they employed.

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, each year localities may apply to the 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 approved providers of services under the joint state and federally funded **Medicaid** public insurance program. They also 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; audiology, nursing, psychiatric, psychological, mental health, and personal care assistance services; medical evaluations; 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 division rather than have to pay for services provided by a private school.

The school's strategic plan reports that VSDB-Staunton's budget for SFY 2013 budget was about 10.2 million, including $9,070,858 in General Funds and $1,237,340 in federal funds. In that year, the school also received an additional $113,802 in appropriations due to budget constraints. However, the SFY 2014 budget shows a decrease in General Funds due to the anticipation that vacated buildings (potentially including a dormitory that will be closed in 2014) will be rented.

Table 13 provides the most recently audited expenditures by the Department of Accounts for VSDB-Staunton for SFYs 2010 through 2012.

Table 13. Expenditures for VSDB-Staunton by SFY			
Source	SFY 2010	SFY 2011	SFY 2012
State General Funds	$10,350,652	$9,932,396	$9,823,171
Special funds	68,456	59,440	61,066
Federal funds	711,253	724,485	894,977
Capital outlay funds	15,500,486	22,970,657	22,469,233
TOTAL	$26, 630, 847	$33,686,978	$33,248,447

Source: Department of Education, *Direct Aid to Public Education and Virginia Schools for the Deaf and Blind-Report on Audit* for the years ended June 30, 2010 and June 30, 2012.

The VSDB-Staunton Foundation administers gifts, grants, and bequests to VSDB-Staunton to support the school's existing and future enterprises. The school receives income from the Foundation's investment, which is managed by the Foundation. The Foundation operates on a calendar year. As of December 31, 2011, the market value of the Foundation's investment

portfolio was $3,303,938. Beginning in 2012, the Foundation was required to obtain an audit from a private CPA firm since it is no longer a state agency. The audit is available at http://www.apa.virginia.gov/reports/VSDB11-12.pdf.

For the 2010 through 2012 biennium, the VSDB-Staunton strategic plan reported serving 122 students with the budgets detailed in **Table 13**. The strategic plan for 2012 through 2014 reported 108 students with projected stable enrollment, indicating that while the number of students is decreasing, the cost per student continues to rise.

5. Monitoring, Evaluation, and Outcomes of Part B Special Education

The Virginia Department of Education (VDOE) Division of Special Education and Student Services is responsible for general supervision and monitoring of the Individuals with Disabilities Education Improvement Act (IDEA) in accordance with its provisions [34 CFR 300.604(a)(1), and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2)] and the Regulations Governing Special Education Programs for Children with Disabilities in Virginia (8 VAC 20-80).

General supervision includes the following components:

➢ submitting State Performance Plans (SPP) and Annual Performance Reports (APR);

➢ ensuring effective policies and procedures;

➢ providing targeted technical assistance and professional development;

➢ administering an effective dispute resolution system;

➢ conducting integrated on-site and off-site monitoring activities;

➢ data verification; and

➢ planning and implementing improvements and corrective actions, and performing necessary follow-up to ensure timely corrections, not to exceed one year.

Virginia's monitoring of special education involves off-site and on-site compliance reviews of (1) the state's 132 public school divisions; (2) state-operated programs, including education programs in juvenile detention and adult correctional facilities, hospitals, schools for the deaf and the blind; and (3) private schools for students with disabilities.

To receive Part B funding under IDEA, all local public school divisions 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 the Virginia Department of Education (VDOE). VDOE monitoring and enforcement activities 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 the 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 its implementation. The SPP must be approved by the federal Office of Special Education Programs Monitoring at the US Department of Education (USDOE) 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.

Virginia's most recent SPP is for 2005 through 2012. It was revised on May 14, 2013, as the USDOE had not yet completed a planned redesign of the SPP. According to the VDOE, the new plan will be submitted in 2014. The SPP sets forth measurable and vigorous targets that are updated annually. IDEA requires the State to submit an **Annual Performance Report (APR)** to the federal Office of Special Education Programs (OSEP) detailing the progress it has made each year in meeting these performance targets. After review of the APR, the OSEP issues an annual "determination letter" that documents the State's overall progress in meeting the requirements of IDEA. The OSEP released its determinations for FFY 2011 in July of 2013. Virginia was among the states determined to **"meet"** the requirements and purposes of IDEA. The OSEP also does periodic compliance visits. The last compliance visit to Virginia was in 2009. There will be changes to both the SPP and APR in 2015.

In its July 2012 release of state determinations, the USDOE reported that it was redesigning its **IDEA accountability system** to more directly support states in improving results for children with disabilities. This includes the methods by which state determinations are made. A Compliance Matrix is now being used by the OSEP. This matrix includes multiple datasets and a color-coded system (green, yellow, and red) that can visually represent a state's performance. The OSEP has also developed a State Data Display to provide better information to the public. This system will be used beginning in 2014. More information can be found at http://www2.ed.gov/fund/data/report/idea/sppapr.html.

The Commonwealth's oversight system has continued its shift from predominantly monitoring compliance with procedural requirements to focusing on educational benefits and student results. School divisions self-report on APR **compliance indicators** to the VDOE's **Division of Special Education and Student Services**, which then works with schools 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, the Division of Special Education and Student Services' **Office of Federal Program Monitoring** conducts onsite

monitoring visits to between 22 and 25 school divisions per year based on a 6-year monitoring schedule. Adjustments to the annual selection of schools in each of the superintendent's 8 regions are made to include school divisions that fail to demonstrate substantial compliance on the federal APR indicators. The onsite reviews determine causes of noncompliance and provide targeted assistance to school divisions with the greatest need.

Virginia has significant accountability and reporting requirements under the Elementary and Secondary Education Act of 1965 (ESEA) provisions (also known as the No Child Left Behind Act of 2001). ESEA required schools to set annual benchmarks for achievement in reading and math that were to lead to 100-percent proficiency by 2014. Schools, school divisions, and states that met or exceeded their annual benchmarks were rated as having made **"adequate yearly progress" (AYP)**. At least 95 percent of all students were required to 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 were based on achievement during the previous academic year or combined achievement from the most recent years. Virginia did not make "adequate yearly progress" in the 2009–2010 school year.

The federal accountability system for ESEA was changed in 2011–2012, and achievement of **annual measurable objectives (AMOs)** replaced the targets (AYP) that schools were previously required to meet. In 2012, Virginia applied and received a request for flexibility (known as a **flexibility waiver**) from the US Department of Education (USDOE). This waiver facilitated the establishment of new AMOS for raising achievement within identified subgroups. According to the VDOE's *2011–2012 Annual Performance Report,* the AMOs were determined using a formula based on the federal law and student achievement data from the State's assessment (SOL) program.

Under the approved flexibility waiver, Virginia schools must meet increasing targets (AMOs) in reading and mathematics for all students and for three **"proficiency gap groups,"** which include students with disabilities and other subgroups, in order to meet federal accountability requirements. According to the USDOE's *2013–2014 Summary of Accountability Results*, schools have three ways to meet the AMOs: (1) test results from the most recently completed school year, (2) test results based on a three-year average, or (3) reducing the failure rate by 10 percent.

When Virginia submitted its initial waiver application, concerns were expressed by representatives of students with disabilities and other "gap groups" due to differing starting points for **targets**. Extensive public comment was received and considered. The baseline targets were revised based on results of state assessments from 2011–2012. **Table 14** shows the targets for all students and for the gap groups:

➢ Gap Group 1 includes students with disabilities, English language learners, and economically disadvantaged students.

➢ Gap Group 2 represents black students.

➢ Gap Group 3 represents Hispanic students.

Students with disabilities are not disaggregated from Gap Group 1 in the *2012–2013 Summary of Accountability Results*, but are in the *2011–2012 Annual Performance Report*.

Table 14. Achievable Measurable Objective (AMO) Targets for the 2012–2013 School Year		
Population	**Reading**	**Mathematics**
All Students	59%	64%
Gap Group 1	52%	52%
Gap Group 2	49%	51%
Gap Group 3	53%	56%
Students with Disabilities*	33%	41%

Sources: VDOE *2012–2013 Summary of Accountability Results* and VDOE *2011–2012 Annual Performance Report*.

Under Virginia's approved waiver, the "n" size for subgroups to be included in accountability is reduced from 50 to 30. In other words, if a school serves at least 30 students in a subgroup, that subgroup must be included in accountability results. This holds 99 percent of Title I schools accountable. It also means an increase in schools providing services to students with disabilities from 105 schools to 396 schools. The student AMOs in reading and math will increase annually until 2017–2018 when the reading objective will be 78 percent for all groups, and the mathematics AMO will be 73 percent for all groups.

As noted earlier, in order to graduate with a Standard or Advanced Studies diploma, Virginia students must pass certain Standards of Learning (SOL) Assessments. In 2010, Governor Bob McDonnell issued **Executive Order No. 9 (EO 9)** establishing the Governor's Commission on Higher Education Reform, Innovation and Investment. EO 9 was designed to improve college and career readiness for all Virginia students. As a part of its response to the Commission, the Virginia Board of Education (VBOE) adopted revised SOLs in mathematics (2009) and in English (2010). The new, **higher standards** resulted in a drop in SOL scores in 2011 and 2012 due to the new rigor and the resulting need for curriculum and teaching strategy adjustments.

As **Table 15** and **Table 16** show, the **disparity** between SOL pass rates for students with and without disabilities continued to be nearly 30 percent in the 2012–2013 school year. The 2011 edition of this *Assessment* pointed to a reduction in the achievement gap between all students and students with disabilities from 2006 through 2010, but this trend has reversed. While all scores in reading and math have dropped since 2011, the aggregate scores for students with disabilities have decreased at a higher rate than for other students taking the 8th grade SOL test.

Table 15. Proficiency (Pass) Rate on SOL Tests - 8th Graders				
8th Grade English Reading and Mathematics				
School Year	**2009–2010**	**2010–2011**	**2011–2012**	**2012–2013**
All students	90%	90%	87%	71%
Students with disabilities	70%	72%	61%	42%
8th Grade Mathematics Only				
School Year	**2009–2010**	**2010–2011**	**2011–2012**	**2012–2013**
All students	87%	82%	58%	62%
Students with disabilities	66%	60%	30%	35%

Source: Virginia Department of Education, *School, School Division and State Report Card*, Customized reports by school year, http://www.doe.virginia.gov/statistics_reports/school_report_card/index.shtml.

Table 16. Proficiency (Pass) Rate on SOL Tests - All Grades				
All Grades English Reading and Mathematics				
School Year	**2009–2010**	**2010–2011**	**2011–2012**	**2012–2013**
All Students	89%	89%	87%	75%
Students with disabilities	75%	73%	67%	53%
All Grades Mathematics Only				
School Year	**2009–2010**	**2010–2011**	**2011–2012**	**2012–2013**
All Students	88%	88%	63%	71%
Students with disabilities	74%	71%	41%	49%

Source: Virginia Department of Education, *2013–2104 Summary of Accountability Results*, https://p1pe.doe.virginia.gov/reportcard/report.do?division=All&schoolName=All.

The **performance** of students with disabilities continues to be the lowest among the subgroups tracked, including those who are economically disadvantaged or who have limited English proficiency. In reading, the gap between these three subgroups on the 8th grade SOL was only about 6 percentage points. In mathematics, the gap was larger with a 40-percent pass rate on the 8th grade math SOL for those with limited English proficiency, a 34-percent pass rate for economically disadvantaged students, and a 25-percent pass rate for students with disabilities.

The **Virginia School for the Deaf and the Blind at Staunton** (VSDB-Staunton) follows all Virginia Assessment mandates. According to VSDB-Staunton, students often come to the school without current SOL scores, or the scores are inflated based on the results of testing at VSDB-Staunton. In 2012–2013, the Virginia Alternative Assessment Program (VAAP) and SOL scores indicate a 29.4-percent pass rate. Phonological Awareness Literacy Screening (PALS) is used to test elementary and middle-school students.

PALS is given in the fall and spring to determine individual, longitudinal growth for each student. In 2012–2013, 12 students in elementary and 12 middle-school students were tested. Of the students tested, 89 percent showed improvement in their reading scores. Of those who improved, 17 percent improved .5 year in reading level, 33 percent improved 1 year in reading level, and 17 percent improved 2 years in reading level. The Qualitative Reading Inventory (QRI) is a test given annually to high-school students in the Deaf Department. This test is used primarily for teachers to measure the student's narrative and expository reading.

The VDOE also publishes annually the *Special Education Performance Report*, regarding the performance of students with disabilities on federal OSEP indicators. Data on two key indicators from the latest four annual reports appear in **Table 17**. Not all indicators were required to be reported (N/R) each year.

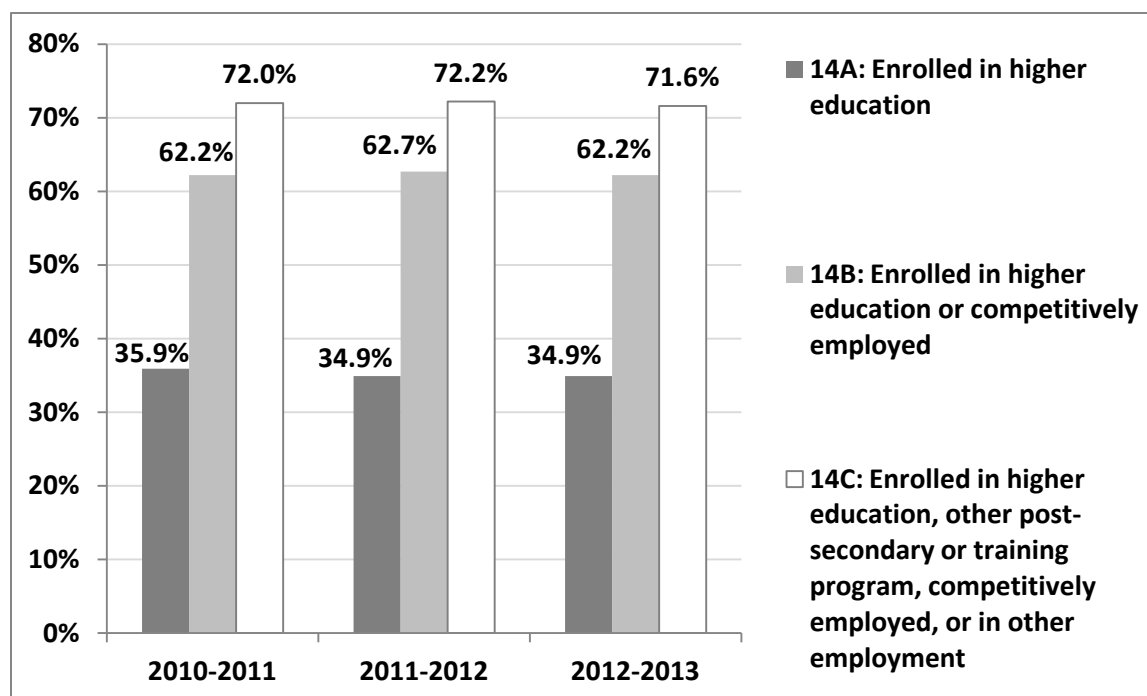| Table 17. Special Education Performance on Indicators 1 and 2 by School Year				
Outcome Indicator	**2009–2010** Target / Actual	**2010–2011** Target / Actual	**2011–2012** Target / Actual	**2012–2013** Target / Actual
Indicator 1 Graduation with regular diploma	N/R	44.40% / 52.76%	49.96% / 48.41%	53.57% / 49.12%
Indicator 2 Drop-out rate for grades 7-12	1.85% / 1.63%	2.25% / 1.53%	2.10% / 1.52%	2.00% / 1.49%

Although the targets (which are quite low) have been met, the **graduation rate** declined by over 4 percentage points in 2011–2012 as compared with 2010–2011. The 2012–2013 graduation rate was higher than in 2011–2012. The higher cut scores of certain Standards of Learning (SOL) tests implemented by the Virginia Board of Education may have contributed to this decline. The drop-out rate for students with disabilities has remained stable, dropping just slightly in 2012–2013 but meeting the target.

The requirement for serving children in the least restrictive environment (LRE) is an area of considerable concern to parents and was a principal issue for due process hearing requests. The targets since 2009 have been met but have not increased. As shown in **Table 18**, despite a requirement for access to the general curriculum and education with non-disabled peers, the number of children spending most of their day in a regular classroom remains below 70 percent, while the number of students served in separate programs increased 0.6 percent from 2010–2011 to 2011–2012 and remained at that same level in 2012–2013.

Table 18. Special Education Performance on Indicators 5A-C by School Year				
Least Restrictive Environments in K–12	2009–2010 Target / Actual	2010–2011 Target / Actual	2011–2012 Target / Actual	2012–2013 Target / Actual
5A: 80% or more time in regular classroom	66.0% / 59.0%	68.0% / 55.3%	68.0% / 61.8%	68.0% / 62.2%
5B: 40% or less time in regular classroom	9.0% / 11.0%	8.0% / 18.5%	8.0% / 12.5%	8.0% / 12.6%
5C: Served in separate public or private program	<1.0% / 3.5%	< 1.0% / 3.0%	< 1.0% / 3.6%	< 1.0% / 3.6%

Transition to higher education and/or integrated competitive employment is the ultimate goal for students with and without disabilities. The state achieved 100 percent performance in writing appropriate transition goals and involving students in transition planning. However, actual **post-school outcomes** do not match this paper achievement. As shown in **Figure 11**, the percentage of students achieving post-school success is way too low. Indicator 14B is more positive, although it still means that nearly 40 percent of students are neither in higher education nor competitively employed one year after high school. Indicator 14C includes individuals in non-competitive (sheltered) employment.

Figure 11. Indicators 14A–C: Post-High-School Outcomes for Students with Disabilities

Source: *Special Education Performance Report, Indicators and Targets Information,* 2009–2010, 2010–2011, 2011–2012, and 2012–2013.
http://www.doe.virginia.gov/info_management/data_collection/special_education/

Rates of **suspension and expulsion** are also an increasing concern. The target for this indicator (Indicator 4B) is 0. According to the VDOE, in 2009–2010, 10 of Virginia's 132 school divisions (7.57 percent) had a significant discrepancy in the rate of suspensions and expulsions of more than 10 days in a school year for children with Individualized Education Programs (IEPs). Data for 2010–2011 (reported in the *2011–2012 Annual Performance Report*) shows that the number of schools with a significant discrepancy increased from 10 to 14 divisions (10.6 percent). In 2011–2012, this was reduced to 12 divisions, and in 2012–2013, there were 11 divisions with a significant discrepancy. As part of its work to improve Indicator 4B, the VDOE responded to the 2010–2011 increase by providing a self-assessment instrument that details requirements and a guidance document. Following a further review, only 1 of the 14 divisions with discrepancies remained non-compliant. However, numbers from the next two years indicate that performance in this area is still problematic.

In addition to initiatives discussed in earlier sections of the report, the VDOE's improvement efforts related to services and supports for children with disabilities include the following:

➢ In 2012, the General Assembly passed HB 755, amending the Code of Virginia (§ 22.1-298.3) to require instructional aides working with students who have an autism spectrum disorder to receive **behavior management training** within 60 days of their assignment.

➢ The 2012 General Assembly also amended the Code of Virginia to add section § 22.1-129.1. This change allows school divisions that have purchased an **assistive technology device** for a student with a disability to sell, lease, donate, or loan the device. The purpose of this amendment is to enable devices that are specialized to the child to move with the child under certain circumstances or to go to a state or local agency that the student may be working with upon graduation. In support, the VDOE offers training and technical assistance regarding the role of assistive technology in improving access to the general curriculum and supporting students with disabilities in general education classrooms. Guidelines on the transfer of assistive technology were published in August of 2013 and can be found at http://www.doe.virginia.gov/administrators/superintendents_memos/2013/239-13a.pdf.

➢ Proposed changes to **licensure regulations** for school personnel were presented to the Board of Education in June of 2013. The regulations are currently under the executive branch review process. Among the changes proposed is the establishment of **add-on endorsements** for special education general curriculums for K–6, middle school, and secondary teachers. The proposed endorsements are designed to increase the number of general education teachers who are knowledgeable and trained to work effectively with students with disabilities in the general education classroom. More information is available at http://www.doe.virginia.gov/boe/meetings/2013/06_jun/agenda_items/item_i.pdf.

➢ VDOE continued to improve **new teacher preparation** programs, including its **Vision Impairment Consortium** (initiated with Old Dominion, George Mason, Norfolk State, and James Madison Universities) and the **Aspiring Special Education Leaders Program**. The Aspiring Leaders program is now in its 6th cohort, training about 30 school staff per year. According to VDOE, the promotion rate of participating staff is about 25 percent. This includes teachers promoted to administrative leadership positions or lower level administrators promoted to positions of greater responsibility. A formal evaluation of the program will be coordinated with George Mason University.

➢ VDOE continued to work with local school divisions on the implementation of **Response to Intervention (RTI)**, which seeks, among other goals, to avoid unnecessary referrals to special education through its **Virginia Tiered System of Supports (VTSS).** According to the *Guide for School Divisions* (2013), the goal of the model is to create a division-wide approach to systems change by improving instructional decision-making at all levels (from pre-kindergarten through 12th grade) and in the classroom through the division level. The VTSS model cannot be used to deny or delay an initial evaluation under *IDEA*. The school must make a referral for an initial evaluation whenever it is suspected that a child may have a disability to determine eligibility for special education and related services. In addition, the VTSS does not supersede or circumvent the parents' right to request an initial evaluation under IDEA at any time. For more information on the tiered supports, go to http://www.doe.virginia.gov/instruction/virginia_tiered_system_supports/resources/vtss_guide.pdf.

➢ VDOE developed the **Virginia Education Wizard Academic and Career Planning** online tool. Pursuant to Virginia regulations (8 VAC § 20-131-140), beginning with the 2013–2014 academic year, all schools were required to begin developing personal Academic and Career Plans for each 7th grade student with completion by the fall of the student's 8th grade year. The components of the Plan include, but are not be limited to, the student's program of study for high school graduation and a post-secondary career pathway based on the student's academic and career interests. For more information on the plans, go to http://www.doe.virginia.gov/instruction/graduation/academic_career_plan.shtml.

➢ Tutorials were developed to help students and teachers prepare for **SOL assessments**, including tutorials for students who need additional preparation for retakes of SOL tests, which are required for high-school-verified credit courses.

➢ VDOE launched a new website in August of 2013 by VDOE to provide information on special education issues and practices and services for families who have children with disabilities in the Commonwealth. The new website is called the **"Virginia Family Special Education Connection"** and can be located at http://vafamilysped.org/.

➢ VDOE continued its technical assistance, data analysis, monitoring, and participation in conferences and meetings regarding the **disproportionate representation** of black males in Virginia's special education program.

➢ Parents and professionals were able to access training and technical assistance on how to use the **dispute resolution system**, conduct functional behavioral assessments, develop positive behavior intervention plans, and maintain effective school-wide discipline.

The **State Special Education Advisory Committee** (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). SSEAC members are appointed by the Board of Education and include parents, individuals with disabilities, advocates, and representatives of public and private schools and postsecondary education, among others. A majority of members must be individuals with a disability or parents of children with disabilities who are eligible to receive services under IDEA. The SSEAC is charged with the following:

➢ defining plans for identifying children with disabilities;

➢ formulating and developing long-range plans that will provide services for children with disabilities;

➢ determining the unmet needs of children with disabilities within the State;

➢ developing priorities and strategies for meeting identified needs of children with disabilities;

➢ reviewing and making public comment on the State Improvement Plan, the procedures for distributing funds under Part B of IDEA, and any rules or regulations proposed by the State regarding the education of children with disabilities;

➢ reviewing findings and decisions regarding due process procedures for parents and children;

➢ advising the State in developing corrective-action plans to address issues identified in Federal monitoring reports; and

➢ preparing and submitting an annual report to the Virginia Board of Education.

The SSEAC's annual reports summarize each year's efforts and provide recommendations to the Board of Education. These reports are available at http://doe.virginia.gov/boe/committees_advisory/special_ed/index.shtml.

The *2012–2013 Virginia State Special Education Advisory Committee Annual Report* (hereafter referred to as SSEAC annual report*)* made the following recommendations to the Board of Education:

Diplomas and Assessments

➢ That the VDOE increase the requirements to obtain the **Special diploma** to better support successful post-secondary outcomes in areas such as employment, education, training, and independent living.

➢ That the VDOE develop a guide to explain testing and its impact on **diploma options** and that the guide be required to be distributed no later than the second grade and annually thereafter.

Inclusive Education

➢ That the VDOE create a checklist or similar document that identifies **exemplary inclusive practices** and allows schools to assess themselves in this area for the purpose of increasing the percentage of students with disabilities spending 80 percent or more of their day in a regular education setting (in line with federal OSEP Indicator 5A).

➢ That VDOE work to ensure that all documents and communication use **people-first language**, so that it becomes a model for localities.

Transition

➢ That, considering the centralized location of the **Center for Transition Innovations**, the Center address the needs of all regions of the Commonwealth. In supporting the need to address transition as early as possible across all areas in a student's school career, the SSEAC recommended the exploration of diverse and coordinated fiscal resources in partnership with multiple agencies to support transition.

In its 2011–2012 report, the SSEAC recommendations focused on the VDOE implementing and supporting activities with regard to:

➢ preventing bullying,

➢ educating families on assessment decisions and diploma options,

➢ ensuring that students with disabilities participate in school emergency evacuation drills and safety procedures, and

➢ facilitating school divisions' development of strategies and plans to ensure that school playgrounds and external school property provide full inclusion and accessibility for all students, teachers, guests, and staff.

The SSEAC reports for the last two years represent a significant increase in the Committee's focus on policy and programmatic improvements. While both the 2009–2010 and 2010–2011 reports provided information on presentations received, issues reviewed, and the Committee's concerns, the SSEAC did not make any formal recommendations to the Board of Education in either of its earlier reports, a key function of the Committee as an advisory body.

Although not mandated by the IDEA, state regulations (8 VAC § 20-80-90) require that local school divisions establish **Local Advisory Committees**, referred to as either **"LACs"** or **"local**

Special Education Advisory Committees (SEACs)." These committees, members of which are appointed by local school boards, advise these boards in much the same way that the SSEAC 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 Special Education Advisory Committee (SSEAC), they conduct annual reviews of their programs' policies and procedures.

LACs or local SEACs vary greatly in their operational processes and effectiveness. Working with education and advocacy partners, the VDOE has developed tools to help ensure that LACs function in a meaningful manner. In 2011–2012, at the request of the SSEAC, VDOE's Office of Dispute Resolution and Administrative Services conducted eight regional trainings for local special education directors and LAC chairs to educate them about the work of the SSEAC and provide an opportunity for LAC chairs to meet and network. Additional information and the referenced tools can be found at
http://www.doe.virginia.gov/boe/committees_advisory/special_ed/local_sped_advisory_committees/index.shtml.

VDOE's Office of Special Education and Student Services also monitors education programs in **private residential facilities** under the applicable federal and state requirements regarding the provision of special education services. At the time of this assessment, new regulations for the operation of private schools for students with disabilities were under development to 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.

The **Virginia School for the Deaf and the Blind at Staunton (VSDB-Staunton)** has 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 4 legislative members, and 7 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.

The **VSDB-Staunton residential program** is 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 the students at VSDB-Staunton. Staff at VSDB-Staunton who teach students are licensed by the 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 Elementary and Secondary Education Act (ESEA).

According to the VSDB's strategic plan for 2010 through 2012, 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.

VDOE's **Office of Dispute Resolution and Administrative Services (ODRAS)** manages a number of programs and processes, providing options for parents who are unable to resolve issues with the provision of special education services for their child at the local school division level. These include the following:

➢ The **Ombudsman for Special Education** serves as a resource to parents in non-legal special education matters. The ombudsman acts as an informal source of information and referral, and helps individuals to get questions answered and to resolve concerns and issues. For more information and to contact the ombudsman, go to http://www.doe.virginia.gov/special_ed/resolving_disputes/ombudsman/index.shtml.

➢ **Mediation** is voluntary procedure whereby a neutral, trained mediator can be sought by parents or school division staff to assist in negotiations and help reestablish productive working relationships. Both parties must agree to mediation. For more information on the role of the mediator and preparing for mediation, go to http://www.doe.virginia.gov/special_ed/resolving_disputes/mediation/index.shtml.

➢ **Complaints** are investigated by ODRAS, and valid complaints are resolved. Typically a complaint alleges a violation of state or federal law or regulations and most often involves procedural issues. However, issues related to a child's right to the provision of a free appropriate public education (FAPE) also are considered. For help or more information, go to http://www.doe.virginia.gov/special_ed/resolving_disputes/complaints/index.shtml.

➢ **Due process** involves an informal, administrative hearing process conducted before a hearing officer to resolve disagreements over issues related to a child's eligibility for special education and related services, evaluation of a child with a disability,

appropriateness of a child's services and/or placement, or any other matter under the right to a free, appropriate public education, including disciplinary matters. For help or more information, go to http://www.doe.virginia.gov/special_ed/resolving_disputes/due_process/index.shtml.

ODRAS also coordinates IDEA **training and parental involvement initiatives**, and responds to inquiries regarding the application of federal and state regulations that govern special education.

The *Parents' Guide to Special Education Dispute Resolution*, which was developed in 2008, helps parents navigate the intricacies of the dispute resolution system. It can be found at http://www.doe.virginia.gov/special_ed/resolving_disputes/parents_guide_dispute_resolution. pdf. Additional resources for parents seeking legal and non-legal help can be found on the VDOE website at http://www.doe.virginia.gov/special_ed/resolving_disputes/index.shtml.

The ODRAS produces an Annual Report on the Dispute Resolution Systems and Administrative Services that can be found at http://www.doe.virginia.gov/special_ed/resolving_disputes/. The report identifies and addresses systemic compliance issues affecting local school divisions. While the report for 2012–2013 was not posted at the time of this assessment, the data set forth for that year had been compiled and made available to stakeholders and is included in **Figure 12**. It provides the number of complaints and requests for mediation and due process hearings that were filed by parents in each school year from 2009 through 2013.

Figure 12. Special Education Dispute-resolution Mechanisms by School Year
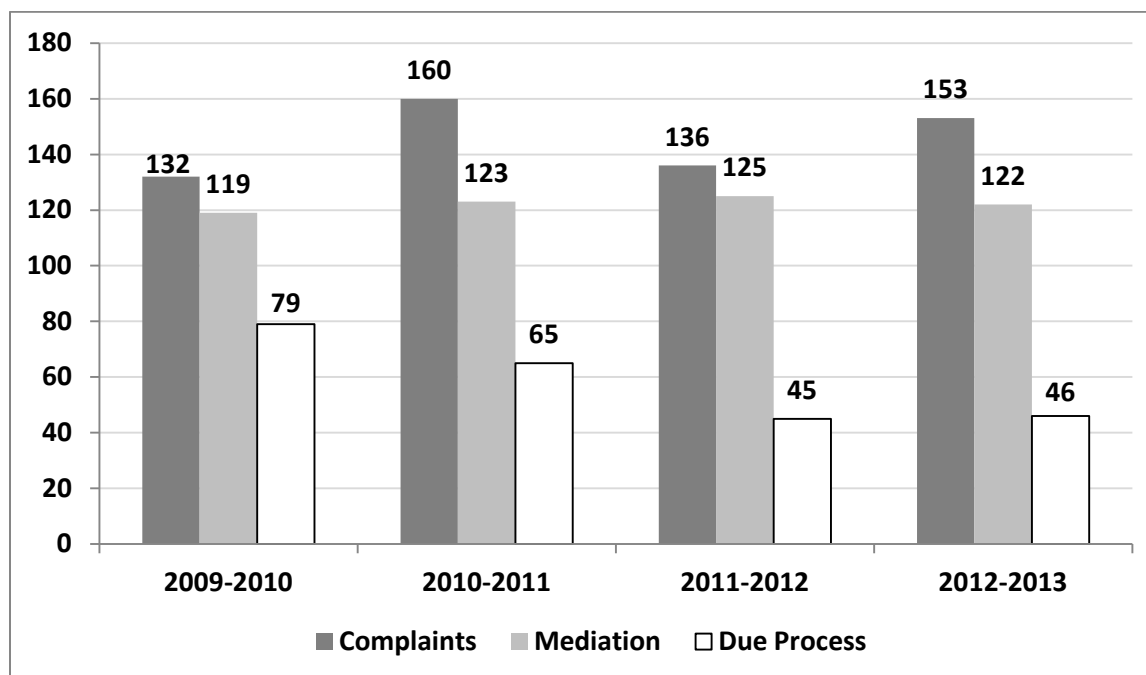
Source: Virginia Department of Education's *Annual Report of the Dispute Resolution Systems and Administrative Services*, 2008, 2009, 2010, 2011, 2012.

The number of **due process** requests has steadily decreased. Requests for hearings are down 42 percent, from 79 in the 2009–2010 school year to 46 in 2012–2013. **Mediation** requests have remained fairly steady over the same four years, but **complaints** have been more erratic. Complaints reached a high of 160 during the 2010–2011 school year, then dropped by 15 percent to 136 the following year before rising 12.5 percent to total 153 in 2012–2013. The VDOE does not know of any specific reason why complaints rose in 2012–2013. However, there are instances in which the same party or parties file multiple complaints. **Table 19** illustrates the disposition of various dispute-resolution mechanisms over the last five years.

Table 12. Status of Special Education Complaints, Mediations, and Due Process				
School Year	**2009–2010**	**2010–2011**	**2011–2012**	**2012–2013**
Complaints				
Resolved through mediation or settlement	11	13	9	17
Withdrawn	20	37	12	20
Dismissed	2	1	1	38
Decision/findings issued	99	88	101	61

Table 12. Status of Special Education Complaints, Mediations, and Due Process				
School Year	2009–2010	2010–2011	2011–2012	2012–2013
Complaints				
Pending *	0	21	13	17
Mediations				
Resolved	56	68	81	83
Unresolved	20	19	26	18
Request withdrawn	22	24	18	19
Pending *	21	12	0	2
Due Process				
Dismissed/request withdrawn	60	55	37	35
Decision rendered after hearing	12	9	5	6
Decision pending *	7	1	0	5

* As of June 30 of the reporting year.

Due process requests in 2011–2012 involved 19 school divisions, down from 31 divisions in 2010–2011. Two large divisions, Fairfax and Virginia Beach, accounted for 18 (about 39 percent) of the requests. These divisions serve approximately 21 percent of the special education students in the Commonwealth.

The number of actual hearings continues to be low. There were 46 requests for due process in 2012–2013, but only 11 went to a hearing. Decisions in **due process hearings** continued to predominantly be rendered in favor of the school division. While the parent was the initiating party in all 6 cases for which a decision has been rendered, the school division prevailed in 5 of the cases. The 6th case resulted in a split decision. The number of distinct issues addressed by these cases was up significantly from 4 different issues in 2011–2012 to 16 issues in 2012–2013. The predominate issue in these cases involved the appropriateness of a student's IEP. Decisions are pending on the 5 additional cases that went to hearing.

In 2012–2013, 35 of 46 due process requests were dismissed or withdrawn. When a due process request is dismissed or withdrawn, it can be due to mediation, a settlement agreement, or simply a request to withdraw. Cases also may be closed if a hearing officer dismisses the case for technical reasons, such as the statute of limitations running out or failure to provide sufficient notice, among other reasons.

The addition of **resolution sessions** to the due process hearing system was mandated in the 2004 amendment and reenactment of the 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. In 2012–2013, 30 resolution sessions were held with respect to the 46 due process requests. Agreements were reached in 17 of these cases. The VDOE does not identify any trends with respect to the decrease in due process hearings. There are many reasons why the numbers of hearing requests may have decreased, including the cost of proceeding to a due process hearing, the use of resolution sessions and/or mediation, lack of knowledge about how to use dispute resolution mechanisms, or better communication in some school divisions between parents and school personnel.

With respect to **complaints**, the highest rate of noncompliance findings was for Individualized Education Program (IEP) issues. This is consistent with previous editions of this *Assessment*. There were 72 IEP issues in 2012–2013 out of 207 total complaint issues. The VDOE deemed that the school division was out of compliance in 25 issues. Of those 25 issues, 10 were in IEP implementation, and 4 were in IEP development, review, and revision. However, school divisions were found compliant in 19 IEP implementation issues, and in 24 IEP development review and revision issues.

Other key issues for which parents filed complaints included placement, parent participation in IEP meetings, extended school year, prior written notice, eligibility and evaluation procedures, and discipline. In the 2012–2013 cases where **Mediation** was sought, there was a successful outcome in 82 percent of cases, up from 76 percent the previous year.

Of the 122 requests for mediation in 2012–2013, 16 were involved in a due process proceeding. Mediation can be requested while awaiting a due process hearing with no negative effect on due process timelines. There were 189 issues addressed through mediation that were related to IEPs. The predominant issues involved the sufficiency and type of services in the IEP, the child's placement, and IEP goals. These issues are typical in the sense that they have been fairly consistently raised since 2008–2009.

The VDOE is in the process of developing a **facilitated IEP model.** Details on this program will be developed in the next several years. While not directly related to dispute resolution, it is hoped that the presence of an impartial facilitator to help guide some IEP meetings (this individual would not be a member of the IEP team) might help prevent and resolve IEP issues. Stakeholders are being involved in the development of this improvement process.

F.   Chapter References

Links to websites and online documents reflect their Internet addresses in June of 2014. Some documents retrieved and utilized do not have a date of publication.

1. Websites Referenced

Auditor of Public Accounts

http://www.apa.virginia.gov

Commonwealth Autism Service

http://www.autismva.org

Legislative Information System: Code of Virginia §§ 22.1-253.13:4

http://lis.virginia.gov/cgi-bin/legp604.exe?000+coh+22.1-253.13:4+500268

Joint Legislative Audit and Review Commission

http://jlarc.virginia.gov/

US Department of Health and Human Services

Administration for Children and Families

http://www.acf.hhs.gov

Office of Head Start

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

Virginia Autism Council

http://www.autismtrainingva.org

Virginia Commonwealth University Autism Center for Excellence

http://www.vcuautismcenter.org

Virginia Department for the Blind and Vision Impaired

http://www.vdbvi.virginia.gov

Virginia Department of Education

http://www.doe.virginia.gov

Dispute Resolution

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

Early Childhood

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

ESEA Flexibility

http://www.doe.virginia.gov/federal_programs/esea/flexibility/index.shtml

Grants and Funding

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

Information for Parents

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

I'm Determined Project

http://www.imdetermined.org

Monitoring and Part B

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

Regulations, Laws and Policies

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

Secondary Transition

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

Section 504

http://www.doe.virginia.gov/special_ed/tech_asst_prof_dev/section_504_implementation_va.pdf

Special Education

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

Special Education Child Count

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

Specific Disabilities

http://www.doe.virginia.gov/special_ed/disabilities/index.shtml

State Special Education Advisory Committee

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

Statistics and Reports

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

Testing and Standards of Learning

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

Virginia Family Special Education Connection

http://vafamilysped.org/

Virginia Preschool Initiative

http://www.doe.virginia.gov/special_ed/disabilities/index.shtml

Virginia Department for Aging and Rehabilitative Services

http://www.dars.virginia.gov

Virginia Department of Social Services

http://www.dss.virginia.gov

Head Start

http://www.dss.virginia.gov/family/cc/headstart

Virginia Head Start Association

http://www.headstartva.org

Virginia School for the Deaf and the Blind at Staunton

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

Documents Referenced

Administration for Children and Families, Administration on Children, Youth and Families. *Head Start Program Facts: Fiscal Year 2012*. Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/factsheets

Administration for Children and Families, Administration on Children, Youth and Families. (2008–2009). *Head Start Program Information Report: Enrollment Statistics Report–State Level.* Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/pir

Administration for Children and Families, Administration on Children, Youth and Families. (2007–2008, 2009–2010, 2010–2011, 2011–2012). *Head Start Program Information Report: Performance Indicator Report–State Level.* Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/pir

Administration for Children and Families, Administration on Children, Youth and Families. (2008–2009, 2009–2010, 2010–2011). *Head Start Program Information Report: Disability Services Report–State Level.* Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/pir

Administration for Children and Families, Administration on Children, Youth and Families. (2009–2010, 2011–2012). *Head Start Program Information Report: Summary Report -State Level*. Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/pir

Administration for Children and Families, Administration on Children, Youth and Families. (2011–2012). *Head Start Program Information Report: Multi Year Report*. Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/mr/pir

Auditor of Public Accounts. *Virginia School for the Deaf and the Blind and the Virginia School for the Deaf and the Blind Foundation: Report on Audit for the Year ended June 30, 2012.* Retrieved from http://www.apa.virginia.gov/APA_Reports/Reports.aspx

Auditor of Public Accounts. *Virginia School for the Deaf and the Blind and the Virginia School for the Deaf and the Blind Foundation: Report on Audit for the Year ended June 30, 2011*. Retrieved from http://www.apa.virginia.gov/APA_Reports/Reports.aspx

Auditor of Public Accounts. *Virginia School for the Deaf and the Blind and the Virginia School for the Deaf and the Blind Foundation: Report on Audit for the Year ended June 30, 2010*. Retrieved from http://www.apa.virginia.gov/APA_Reports/Reports.aspx

Code of Virginia, § 22.1-7. Retrieved from http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-7

Code of Virginia, § 22.1-213-221. Retrieved from http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+22.1-213

Joint Commission on Health Care. (September 2013). *Presentation to the Behavioral Health Care Subcommittee: Needs of Individuals with Autism Spectrum Disorder Transitioning from Secondary Schools.* Retrieved from http://.jchc.virginia.gov

US Code, 20 USC § 1400 et seq. (December 3, 2004). Individuals with Disabilities Education Improvement Act (IDEA) of 2004. Retrieved from http://www.gpo.gov/fdsys/pkg/PLAW-108publ446/html/PLAW-108publ446.htm

US Code, 42 USC § 9801 et seq. Improving Head Start for School Readiness Act of 2007. Retrieved from http://eclkc.ohs.acf.hhs.gov/hslc/standards/Head%20Start%20Act

US Department of Education, 34 CFR Part 300. (December 2008). *Assistance to States for the Education of Children with Disabilities and Preschool Grants for Children with Disabilities: Final Rule.* Retrieved from http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=/ecfrbrowse/Title34/34cfr300_main_02.tpl

US Department of Education. (July 2013). *Determination Letters on State Implementation of* IDEA*.* Retrieved from http://www2.ed.gov/fund/data/report/idea/ideafactsheet-determinations-2013.pdf

Virginia Board of Education. (January 2013). *Training Requirements for Paraprofessionals Assigned to Work with a Teacher who has Primary Oversight of Students with Autism*. Retrieved from http://www.doe.virginia.gov/boe/meetings/2013/01_jan/agenda_items/item_g.pdf

Virginia Commonwealth University. (July 2013). *Report on Indicator #14: Virginia's Post-school Outcomes to the State Special Education Advisory Committee.* Retrieved from

http://www.doe.virginia.gov/boe/committees_advisory/special_ed/meetings/index.shtml

Virginia Commonwealth University, Partnership for People with Disabilities. *Head Start Focus Group Report 2010–2011*. Retrieved from http://www.headstartva.org

Virginia Commonwealth University, Partnership for People with Disabilities. *Virginia Head Start Five-Year Self-Assessment Report Program Years 2006–2011*. Not available online.

Virginia Department for Aging and Rehabilitative Services. *Annual Report of the Postsecondary Education Rehabilitation Transition (PERT) Program (2011 and 2012)*. Retrieved from http://www.vadrs.org/formscabinet/Formscabinet.asp?pass=et1&t1=WWRC&pg=

Virginia Department for Aging and Rehabilitative Services. *Annual Report of the Postsecondary Education Rehabilitation Transition (PERT) Program*. (2011 and 2012) Retrieved from http://www.vadrs.org/formscabinet/Formscabinet.asp?pass=et1&t1=WWRC&pg=Virginia Department of Education. (August 2013). *Accountability and Virginia Public Schools.* Retrieved from http://www.doe.virginia.gov/statistics_reports/school_report_card/accountability_guide.pdf

Virginia Department of Education. (July 2013). *Additional Guidance on Credit Accommodations for Students with Disabilities.* Retrieved from http://www.doe.virginia.gov/administrators/superintendents_memos/2013/191-13a.pdf

Virginia Department of Education. (September 2010). *Annual Report of the Dispute Resolution Systems and Administrative Services: 2009–2010.* No longer available online.

Virginia Department of Education. (September 2011). *Annual Report of the Dispute Resolution Systems and Administrative Services: 2010–2011.* No longer available online.

Virginia Department of Education. (September 2012). *Annual Report of the Dispute Resolution Systems and Administrative Services: 2011–2012*. Retrieved from http://www.doe.virginia.gov/special_ed/resolving_disputes/reports/annual_report_dispute_resolutions.pdf

Virginia Department of Education. (2010). *A Parents' Guide to Special Education.* Retrieved from http://www.doe.virginia.gov/special_ed/parents/parents_guide.pdf

Virginia Department of Education. (January 2013). *Briefing: Virginia Preschool Initiative.* Not available online.

Virginia Department of Education. (April 2013). *Guidelines for Standard Diploma Credit Accommodations for Students with Disabilities.* Retrieved from http://www.doe.virginia.gov/administrators/superintendents_memos/2013/105-13a.pdf

Virginia Department of Education. (July 2012). *Highlights of Virginia's Approved Flexibility Request from the Elementary and Secondary Education Act.* Retrieved from http://www.doe.virginia.gov/federal_programs/esea/flexibility/communications/2012/july02_highlights.shtml

Virginia Department of Education. *Medicaid and Schools.* Retrieved from http://www.doe.virginia.gov/support/health_medical/medicaid/index.shtml

Virginia Department of Education. (July 2013). *Participation of Students with Disabilities in Virginia's Accountability System: A Guide for Educators and Parents.* Retrieved from http://www.pen.k12.va.us/testing/participation/participation_va_accountability_system.pdf

Virginia Department of Education. *Proficiency Gap Dashboard for Federal Accountability: 2012–2013 Summary of Accountability Results.* No longer available online.

Virginia Department of Education. *Regulations Governing Special Education Programs for Students with Disabilities in Virginia.* (effective January 25, 2010). Retrieved from http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf

Virginia Department of Education. *School, School Division, and State Report Cards.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/index.shtml

Virginia Department of Education. *School Dropout Statistics.* Retrieved from http://www.doe.virginia.gov/statistics_reports/graduation_completion/dropout_statistics/index.shtml

Virginia Department of Education. *Special Education December Special Child Counts, 2008–2012.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/child_count/

Virginia Department of Education. (June 2013). *Special Education Performance Report, Commonwealth of Virginia Public Schools: 2011–2012.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/index.shtml

Virginia Department of Education. (June 2012). *Special Education Performance Report, Commonwealth of Virginia Public Schools: 2010–2011*. Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/division/2010-2011/index.shtml

Virginia Department of Education. (June 2011). *Special Education Performance Report, Commonwealth of Virginia Public Schools: 2009–2010.* Retrieved from

http://www.doe.virginia.gov/special_ed/reports_plans_stats/special_ed_performance/division/2009-2010/index.shtml

Virginia Department of Education. *Standards and Advanced Studies Diplomas for Special Education Students.* Retrieved from http://www.doe.virginia.gov/statistics_reports/graduation_completion/special_ed_diplomas/index.shtml

Virginia Department of Education. (July 2013). *Superintendent's Memo #191-13: Standard Diploma Credit Accommodations for Students with Disabilities.* Retrieved from http://www.doe.virginia.gov/administrators/superintendents_memos/2013/191-13.shtml

Virginia Department of Education. *Substitute Evaluation Program.* Retrieved from http://www.doe.virginia.gov/testing/alternative_assessments/vsep_va_substitute_eval_prog/index.shtml

Virginia Department of Education. *Virginia Alternate Assessment Program.* Retrieved from http://www.doe.virginia.gov/testing/alternative_assessments/vaap_va_alt_assessment_prog/index.shtml

Virginia Department of Education. *Virginia Grade Level Assessment Alternative.* Retrieved from http://www.doe.virginia.gov/testing/alternative_assessments/vgla_va_grade_level_alt/index.shtml

Virginia Department of Education. *Virginia Modified Achievement Standards Test.* (2012). Retrieved from http://www.doe.virginia.gov/testing/alternative_assessments/vmast_va_mod_achievement_stds_test/index.shtml%20

Virginia Department of Education. *Virginia's Part B Annual Performance Report for 2012–2013.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/annual_performance_reports/2012-13.pdf

Virginia Department of Education. *Virginia's Part B Annual Performance Report for 2011–2012.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/annual_performance_reports/2011-12.pdf

Virginia Department of Education. *Virginia's Part B Annual Performance Report for 2010–2011.* Retrieved from http://www.doe.virginia.gov/special_ed/reports_plans_stats/annual_performance_reports/2010-11.pdf

Virginia Department of Education. (May 2013). *Virginia's Part B State Performance Plan, 2005–*

2012. Retrieved from
http://www.doe.virginia.gov/special_ed/reports_plans_stats/state_performance_plan/2013_revision.pdf

Virginia Department of Education. *Virginia Preschool Initiative Amendments to the 012–2014 Biennial Budget Adopted by the 2013 General Assembly.* (as of February 23, 2013)*.* Retrieved from
http://www.doe.virginia.gov/instruction/early_childhood/preschool_initiative/guidelines.pdf

Virginia Department of Education. *Virginia Preschool Initiative: Guidelines for the Virginia Preschool Initiative Application 2013–2014.* Retrieved from
http://www.doe.virginia.gov/instruction/early_childhood/preschool_initiative/guidelines.pdf

Virginia Department of Education. *Virginia Tiered System of Supports (VTSS): A Guide for School Divisions.* Retrieved from
http://www.doe.virginia.gov/instruction/virginia_tiered_system_supports/resources/vtss_guide.pdf

Virginia Department of Education. (July 2013). *Presentation to the State Special Education Advisory Board: Licensure Regulations and Approved Program Regulations.* Retrieved from
http://www.doe.virginia.gov/boe/committees_advisory/special_ed/meetings/2013/2013_meeting_materials.shtml

Virginia Department of Social Services. *Virginia Head Start State Collaboration Office Five Year Grant Renewal Refunding Application for September 31, 2011–September 30, 2016.* Not available online.

Virginia Department of Social Services. *Virginia Head Start State Collaboration Project.* Retrieved from http://www.dss.virginia.gov/family/cc/headstart.html

Virginia Early Education Childhood Foundation. (2013). *Annual Report 2013 for the fiscal year July 1, 201–June 30, 2013.* Retrieved from
http://www.smartbeginnings.org/Portals/5/PDFs/VECF_Annual_Report_2013_FINAL.pdf

Virginia Head Start Association. *2012 Annual Report.* Retrieved from
http://www.headstartva.org/about/annualreport.php

Virginia Head Start State Collaboration Office. *Virginia HSSCO Five Year Strategic Plan: 2112–2116 [sic]*. Not available online.

Virginia Head Start Collaboration Office Advisory Committee. *Preparing Virginia's Preschool children for School Success: Aligning Expectations and Measuring Quality.* Retrieved from
http://headstartva.org/documents/Alignment-Document.pdf

Virginia School for the Deaf and the Blind at Staunton. *2012–2014 Agency Strategic Plan.* Retrieved from https://solutions.virginia.gov/pbreports/rdPage.aspx?rdReport=vp_Agency&rdAgReset=True&Agency=218

Virginia State Special Education Advisory Committee. *Annual Report: Report to Virginia Board of Education: July 2009–2010.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/

Virginia State Special Education Advisory Committee. *Annual Report: Report to Virginia Board of Education: July 2010–2011.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/

Virginia State Special Education Advisory Committee. *Annual Report: Report to Virginia Board of Education: July 2011–2012.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/

Virginia State Special Education Advisory Committee. *Annual Report: Report to Virginia Board of Education: July 2012–2013.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/

Virginia State Special Education Advisory Committee. *Meeting Minutes: December 2012.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/meetings/index.shtml

Virginia State Special Education Advisory Council. (2012–2013). *Assistant Superintendent's Reports.* Retrieved from http://www.doe.virginia.gov/boe/committees_advisory/special_ed/meetings/index.shtml