# Board of Education Agenda Item

**Item:** M. **Date:** September 26, 2007

**Topic:** Annual Report of the State Special Education Advisory Committee

**Presenter:** Ms. Anne Fischer, Chair

**Origin:**

_X_ Topic presented for information only (no board action required)

___ Board review required by
__X_ State or federal law or regulation
____ Board of Education regulation
___ Other: _____

___ Action requested at this meeting ____ Action requested at future meeting: _____ (date)

**Previous Review/Action:**

___ No previous board review/action

____ Previous review/action
date _____
action _____

**Background Information:**
The State Special Education Advisory Committee (SSEAC) is a federally-mandated panel comprised of individuals with disabilities, teachers, parents, state and local officials, and local administrators. The Individuals with Disabilities Education Act (IDEA) requires that the committee submit an annual report to the state education agency.

**Summary of Major Elements:**
The report includes (1) an overview of the SSEAC organizational structure, (2) a description of meetings conducted during the 2006-07 year, (3) an overview of issues addressed by the committee during the year, and (4) a list of future issues that the SSEAC will consider.

**Superintendent's Recommendation:**
The Superintendent of Public Instruction recommends that the Board of Education accept the report for consideration and disseminate to the public upon request.

**Impact on Resources:**
There is no anticipated impact on resources.

**Timetable for Further Review/Action:**
No further review or action is required unless desired by the Board.

# Virginia State Special Education Advisory Committee Annual Report

**July 2006 – April 2007**

**Presented to the Virginia Board of Education**

**by**

**Mrs. Anne H. Fischer, Chair**

# Executive Summary

**Virginia State Special Education Advisory Committee**
**Annual Report July 2006 – April 2007**

The State Special Education Advisory Committee (SSEAC) met in regular session four times during the year, both in and outside of Richmond. At each of the meetings, public comment sessions and public forums were held and constituency reports were given to enable the community to provide input to the committee. Virginia Department of Education (VDOE) staff, and representatives from various organizations presented on topics requested by the SSEAC.

**Issues Reviewed by the SSEAC and Subcommittees**

Topics and issues addressed by the committee during the year included:

- Qualifications, recruitment and retention of personnel who work with students with disabilities
- Services to students with autism
- Revision of state special education regulations
- The Special Education State Performance Plan/Annual Performance Report
- Enhanced constituency involvement
- Secondary Transition
- Students with disabilities' participation in and performance on Virginia's Standards of Learning Assessments
- Response to Intervention.

**Recommendations**

Based upon public input, constituency reports, and subcommittee deliberations, the committee made the following recommendations during the 2006-2007 year. These are:

- that the license of teachers of students with disabilities accessing the general curriculum be divided into elementary (K-6) and middle/secondary and that coursework be included to meet the grade level content skill and knowledge requirements
- that wording on the proposed endorsement for "teachers of children with disabilities in an adapted curriculum" change the word "adapted" to the word "aligned" to match state assessment terminology
- that a requirement of competence in "orientation and mobility" be added to the vision impairment (VI) teacher endorsement
- that all general education teacher licensure programs require competency in characteristics, legal issues and instructional strategies for children with disabilities
- that the SSEAC endorse the concept of an add-on endorsement for teachers already licensed as elementary teachers or content teachers provided that the add-on endorsement is either at the elementary or middle/secondary level
- that the SSEAC endorse the proposal for the Master's level speech-language pathologist (SLP) to be moved from a teaching license to a pupil personnel license
- that the SSEAC endorse the proposal to include in the state licensure endorsement,

the SLP assistant (provided that they are supervised by a Master's level SLP)

- that the SSEAC endorse the proposal that for provisional licensure, all state required tests must be passed during the first year of the licensure period
- that the VDOE support certificate programs in the areas of leadership in special education, autism, assistive technology and secondary transition
- that the Gifted and Talented licensure language include competence in teaching children with disabilities who are also gifted and talented
- that Indicators 15-20 in the State Performance Plan/Annual Performance Report (SPP/APR) would be reported to the public
- that the format of the Oklahoma [public report] example be included in the school report card by the LEA
- that in lieu of a large stakeholder group, a group of "test drivers" would be used to look at the [public] reports and determine if they are in a useful and understandable format
- that VADOE host conference call sessions with division superintendents and special education directors to share school division data from the SPP/APR
- that the SSEAC support the Virginia Board for People with Disabilities' effort to develop and maintain a database of contact information for individuals interested in special education.

Motions passed by the committee during the 2006-2007 year are provided in Appendix C.

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# Introduction

The Individuals with Disabilities Education Act (IDEA) requires that each state establish and maintain a state advisory panel for the purpose of providing policy guidance with respect to special education and related services for children with disabilities in the state. The statute specifies membership and requires that a majority of members be individuals with disabilities or parents of children with disabilities, specifically, the statute requires the following:

"(i) parents of children with disabilities (ages birth through 26);
(ii) individuals with disabilities;
(iii) teachers;
(iv) representatives of institutions of higher education that prepare special education and related services personnel;
(v) State and local education officials, including officials who carry out activities under subtitle B of title VII of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11431 et seq.);
(vi) administrators of programs for children with disabilities;
(vii) representatives of other State agencies involved in the financing or delivery of related services to children with disabilities;
(viii) representatives of private schools and public charter schools;
(ix) not less than 1 representative of a vocational community, or business organization concerned with the provision of transition services to children with disabilities;
(x) a representative from the State child welfare agency responsible for foster care; and
(xi) representatives from the State juvenile and adult corrections agencies."

In Virginia the panel is known as the State Special Education Advisory Committee (SSEAC). Additional information about the roles and functions of the SSEAC may be found in Appendix A.

# Committee Organization

The activities of the Virginia State Special Education Committee (SSEAC) are governed by the Virginia Board of Education bylaws for advisory committees. The SSEAC year commences on July 1 and ends on July 30 of the following calendar year. An executive committee works with the Virginia Department of Education (VDOE) staff in establishing priorities and agenda items. The SSEAC delegates various subcommittees to monitor the programmatic issues as well as future items of concern. The subcommittee structure conforms to the federal requirements of the State Performance Plan, the process of Virginia regulatory changes, the monitoring of No Child Left Behind (NCLB) requirements. This structure blends into the process of the Priority Projects as well.

| STANDING SUBCOMMITTEES | AD HOC SUBCOMMITTEES |
|---|---|
| Executive | Data & Reports |
| Nominating | Constituency Involvement |
| State Operated Programs | Autism |
| Policy & Regulation | Personnel |

Virginia Department of Education (VDOE) staff members are available to each of the subcommittees to provide technical assistance, clarification of VDOE procedures, and background information.

SSEAC members are assigned a minimum of one standing and one Ad Hoc subcommittee to promote each member's expertise, interest, and concerns. Each executive committee member serves as a chair for a subcommittee. Subcommittees meet independently and make recommendations to the full committee. Such recommendations may include: further study with additional information from the VDOE or referral to the Board of Education through written communications or public comment. The work of the Ad Hoc subcommittees is defined as follows:

**Data and Reports**
This committee requests and reviews special education data collected by the VDOE, provides assistance in reporting the data to the public and makes recommendations about unmet needs identified through data analysis.

**Constituency Involvement**
This subcommittee addresses the ways to involve parents, students, and other community constituents in SSEAC activities as well as in local special education training and parent involvement activities.

**Autism**
This subcommittee addresses issues surrounding special education programs and service delivery for students with autism.

**Personnel**
This committee addresses concerns regarding the availability of fully licensed, highly qualified special education teachers and related service providers.

# Meetings

The committee meets in regular session four times each year, while subcommittees and the executive committee meet as necessary to fulfill their responsibilities to the SSEAC. Every effort is made to consolidate the work of subcommittees to the regular session. All regular meetings are open to the public. The public is offered an opportunity to make comment during specified time allotments at each meeting. All meeting are audio taped to assist with recordkeeping and the audiotapes are maintained by the VDOE in accordance with record keeping policies and procedures.

The committee continues the practice of conducting the meetings across the state. The SSEAC met this year as follows.

| | |
|---|---|
| July 13-14, 2006 | Fairfax |
| October 19-20, 2006 | Harrisonburg |
| January 11-12, 2007 | Richmond |
| April 19-20, 2007 | South Hill |

With the exception of the January meeting, evening forums were held for the informal exchange of information with committee members. Attendance varied according to location, with the Fairfax meeting providing opportunity for a larger segment of constituents. The SSEAC has developed a flyer to notify the public of important issues and upcoming meetings. In addition, the SSEAC, in coordination with the Virginia Board for People with Disabilities, supports and assists in formation of a database of constituents interested in special education and information sharing.

The meeting dates and general locations for 2007-2008 are:

| | |
|---|---|
| July 19-20, 2007 | Richmond |
| October 25-26, 2007 | Lynchburg |
| January 24-25, 2008 | Richmond |
| April 17-18, 2008 | Blacksburg area. |

The State Operated Programs Subcommittee met May 17, 2007 to review the policies and procedures of the state operated programs and the Virginia Schools for the Deaf, Blind, and Multi-disabled.

**Public Comments**

A public comment period is designated for each meeting. The SSEAC provides follow-up and feedback as appropriate to the specific issues raised through the public comment. During the 2006-2007 year public comments were made by students, parents, the Parent Education and Advocacy Training Center (PEATC), and the Virginia Office of Protection and Advocacy (VOPA). The following issues were presented:

- The need for improved skills of school personnel to address free appropriate education in the least restrictive environment for students with autism
- Eligibility issues, especially in the English as a Second Language (ESL) community
- Inadequate and problematic service delivery of services in students' Individualized Education Programs (IEPs)
- Problems in definition and recognition of 'twice exceptional' student's (students with disabilities who are also gifted learners) needs
- Diploma options and course credits
- IEP implementation of students placed in group homes
- Exploration of alternative therapies for students with cerebral palsy and autism

- Compliments for the new procedural safeguards document
- Increased provision of information regarding long term care and support services
- Commendation to an Local Education Agency (LEA) for service delivery to students with autism
- Need to increase the graduation rate for students with disabilities
- Possible barriers to the modified standard diploma
- Lack of adequate functional behavioral assessments and behavioral intervention plans.

**Constituency Reports**
Additionally, at each meeting, members provide an update on issues raised by their respective constituencies. During the 2005-2006 year, the following issues were identified through constituency reports:

- Collections of evidence for the Substitute Evaluation Program not submitted in time for graduation determination
- Lack of positive behavior supports in middle schools
- Concerns regarding 'do not resuscitate' orders for medically fragile students
- Lack of racial diversity of local advisory committees
- State Operated Programs receiving student records in a timely manner
- Retention and recruitment of licensed teachers
- Need for increased priority to be placed on Child Find efforts
- Need for increased efforts to remedy American with Disabilities Act (ADA) non-compliance
- Potential for disproportionality concerns to cause delays and/or incorrect decisions
- Need for improvements in access to public transportation
- Improved transitions from Part B to Part C
- Continued requests to explore more technical assistance for teachers dealing with students with autism
- SSEAC information is being disseminated through the foster care and adoption systems.

## Issues Addressed by the SSEAC through Subcommittees

During 2006-2007 year, the SSEAC continued to monitor the Virginia State Improvement Grant and the State Performance Plan/Annual Performance Report as well as other VDOE initiatives. The SSEAC meeting agenda included additional topics related to the educational achievement for students with disabilities. The committee continued to address specific topical issues as follows:

**Personnel**
Based on work done by the Personnel Subcommittee, and review of public comments on licensure requirements, the SSEAC made recommendations on the proposed licensure regulations which were forwarded to the Board of Education through the public comment

process. The committee made other recommendations on matters pertaining to the preparation of personnel to work with students with disabilities.

- The SSEAC recommended that the license of teachers of students with disabilities accessing the general curriculum be divided into elementary (K-6) and middle/secondary and that coursework be included to meet the grade level content skill and knowledge requirements.
- The SSEAC recommended that wording on the proposed endorsement for "teachers of children with disabilities in an adapted curriculum" change the word "adapted" to the word "aligned" to match state assessment terminology.
- The SSEAC recommended that a requirement of competence in "orientation and mobility" be added to the vision impairment (VI) teacher endorsement.
- The SSEAC recommended that all general education teacher licensure programs require competency in characteristics, legal issues and instructional strategies for children with disabilities.
- The SSEAC endorsed the concept of an add-on endorsement for teachers already licensed as elementary teachers or content teachers provided that the add-on endorsement is either at the elementary or middle/secondary level.
- The SSEAC endorsed the proposal for the Master's level speech-language pathologist (SLP) to be moved from a teaching license to a pupil personnel license.
- The SSEAC endorsed the proposal to include in the state licensure endorsement, the SLP assistant (provided that they are supervised by a Master's level SLP).
- The SSEAC endorsed the proposal that for provisional licensure, all state required tests must be passed during the first year of the licensure period.
- The SSEAC recommended that the VDOE support certificate programs in the areas of leadership in special education, autism, assistive technology and secondary transition.
- The SSEAC recommended that the Gifted and Talented licensure language include competence in teaching children with disabilities who are also gifted and talented.

The committee reviewed information regarding several priority needs to include a university consortium to develop a program for vision impairment (VI) credentialing, the collaborative effort among several universities to prepare speech-language pathologists, and the availability of personnel preparation in the area of autism at various universities.

In response to public comment concerning students with dual exceptionality, the committee requested that the Virginia Department of Education Gifted and Talented (GT) Specialist be invited for a future SSEAC meeting to discuss current requirements and how dual exceptionality (i.e., students with disabilities who are GT) is addressed in personnel preparation.

**Students with Autism**

Through public comment, open forums, and constituency reports, the SSEAC heard numerous concerns from parents about services for children with autism. Specifically, the Autism Subcommittee reviewed copies of the department's "Autism Spectrum Disorders: VDOE Summary of Efforts" and recommended exploration of a certificate for autism

spectrum disorders.

The Autism Subcommittee reviewed the work of the Virginia Autism Council, including the Council's skill competencies document, and discussed the feasibility of developing and disseminating a publication with positive strategies for parents of students with autism spectrum disorders.

The subcommittee also reviewed the work of the VDOE's autism priority project including regional trainings, community events, consultations, and financial support for speakers at state and local conferences. The collaborative effort among state agencies to establish communities of practice in autism across Virginia was also discussed. Additional information about this program will be provided to the full SSEAC when plans are finalized. The Joint Commission on Healthcare's Behavioral Healthcare Subcommittee has added autism to its work plan for 2007. Identifying a single "home" for autism, securing funding for services, and providing services across the lifespan are tasks that will be addressed.

The Autism Subcommittee has consulted with other SSEAC subcommittees and coordinated recommendations focusing on personnel development, data, and communicating with constituents. Although the Autism Subcommittee concluded its work, it recommended that the full SSEAC be updated regularly on VDOE efforts in the area of autism in order to respond appropriately to emerging concerns. In addition, the Autism Subcommittee strongly supports disseminating the Virginia Autism Council's autism skill competencies to professionals and families who work with individuals with autism to ensure the provision of appropriate services.

**Policy and Regulations**

During the 2006-2007 year VDOE staff continued to provide ongoing information regarding the status about the revision of state special education regulations. The SSEAC, through the Policy and Regulations Subcommittee, prepared comment during the initial public comment period (see Appendix D). The committee will continue to monitor the regulations process and will comment publicly on the draft revisions during the second public comment period.

**Data and Reports**

Through the Data and Reports Subcommittee, the SSEAC offered to continue its involvement with the stake holder's group as VDOE prepared the annual State Performance Plan/Annual Performance Report (SPP/APR). The stake holder's group met once and included representation from the committee. The committee made the following recommendations to the VDOE concerning reporting data to the public:

- Indicators 15-20 in the SPP would be reported to the public;
- The format of the Oklahoma [public report] example be included in the school report card by the LEA; and
- In lieu of a large stakeholder group, a group of "test drivers" would be used to look at the reports and determine if they are in a useful and understandable format.

Further discussion about the SPP included suggestions about formatting, linking and integrating information about students with disabilities into the School Report Cards section of the VDOE.

The committee requested that a report comparing LRE (least restrictive environment) data to Standard of Learning performance data be presented to the SSEAC at the April 2007 meeting. The committee also requested further examination of graduation data including details about graduation/completion for students with disabilities. SSEAC members will be invited to participate in the discussion about format issues in reporting the SPP/APR school division data to the public. The Data and Reports Subcommittee recommended that VDOE should host conference call sessions with division superintendents and special education directors to share school division data from the SPP/APR.

**Constituency Involvement**

The Constituency Involvement Subcommittee reviewed sample flyers to address ways that constituents can contact SSEAC members. Additionally, the subcommittee discussed ways in which materials could be disseminated, along with information pertinent to SSEAC matters.

The subcommittee recommended that the Department of Education continue to send the flyer out to local special education directors, parent resource centers, and local special education advisory committee chairs as appropriate to the region in which the meeting is planned. The flyer should be distributed at least one month prior to the meeting date.

Based on a recommendation by the subcommittee, the SSEAC voted to support the Virginia Board for People with Disabilities' (VBPD) effort to develop and maintain a database of contact information for individuals interested in special education. The State Special Education Advisory Committee will assist in this effort by sharing the sign-up/participant lists collected at its public comment and forum opportunities with Virginia Board for People with Disabilities for addition to the database.

The constituency involvement subcommittee has designed a flyer that will be disseminated to a large base of constituents. The one page document is designed to be used by all SSEAC members in networking opportunities. The information on the flyer includes a calendar of all SSEAC meetings during the administrative year as well as a list of members and their constituencies.

The SSEAC remains committed to meeting in various regions of the state to afford opportunity for involvement in public forum and public comment by persons interested in special education issues. Through collaboration with the VBPD the constituency involvement subcommittee will formulate a database of persons with an interest in special education information.

# Other Issues

**Assessment and Accountability for Students with Disabilities**
The SSEAC continues an ongoing dialogue on issues related to the inclusion of students with disabilities in Virginia's accountability system. During 2006-2007, the committee continued to receive updates on the Virginia Grade Level Alternative (VGLA) and the Virginia Alternative Assessment Program (VAAP). Results of the first year of administration of the revised VAAP were reported. The SSEAC will continue to monitor the implementation of the VAAP and the VGLA and will receive progress reports as the VDOE begins development of the newly authorized modified achievement standards.

**Secondary Transition**
The SSEAC continues a strong interest in effective transition programs for students with disabilities. At the October meeting held in Harrisonburg, the committee received an extensive overview of transition initiatives in the Region 5 area, including those operated by local school divisions/regional programs, James Madison University, and Woodrow Wilson Rehabilitation Center.

**Youth Self-determination**
The SSEAC strongly supports programs that enhance self-advocacy skills on the part of students with disabilities. At its July meeting in Fairfax, the committee received a presentation about Virginia's "I'm Determined" project.

# Future Issues

Listed below are areas on which the SSEAC will continue to monitor and advise the Virginia Board of Education and the Department of Education as they continue their work for the families and students of Virginia.

**Assessment, Accountability, and Academic Achievement of Students with Disabilities**
The SSEAC will continue to monitor the number of students that participate and are successful in the identified assessments administered in the state of Virginia. Additionally, we will examine avenues to assist LEAs with the professional development of IEP teams to ensure that they are adequately prepared to address appropriate accommodations that ensure equal access to curriculum and assessment. The SSEAC will also provide recommendations about new assessment(s) for students with disabilities**.**

**State Performance Plan**
The SSEAC will continue to be represented on various stakeholder workgroups as VDOE collects and analyzes 2006-2007 SPP/APR data for submission in 2008.

**Virginia Regulatory Process**
During the 2007-2008 year, the SSEAC will make public comment on the proposed revisions to the state special education regulations.

**Response to Intervention (RtI)**
The SSEAC will continue to follow the RtI initiative with interest and will request updates as the VDOE progresses through its implementation strategies. The committee will be especially interested in strong collaboration between special education and general education and in activities related to teacher training that will provide for skill development in data collection and use.

**The Schools for the Deaf & Blind**
The SSEAC has received periodic updates as the decisions regarding consolidation of the two schools for the deaf and the blind. The committee will continue to monitor the needs of the constituents as the changes are made in both locations.

**Access to the General Curriculum in the Least Restrictive Environment**
The SSEAC has frequently received public comments related to placements in self-contained classrooms and the lack of access to subject area specialists and inadequate peer instruction. The committee will continue to pursue comparative data and assess the barriers to least restrictive environment, as well as recommend improved access and appropriate accommodations and instruction.

**National Instructional Materials Accessible Standards**
The SSEAC has received frequent updates on the implementation of the National Instructional Materials Access Standards (NIMAS) and will continue to follow this initiative.

**Personnel Development**
The SSEAC will continue to monitor the future needs for highly qualified teachers.

**Youth Self-determination Projects**
The SSEAC will continue to follow VDOE's self-advocacy initiative and will request periodic updates from staff.

**Staffing Standards**
The SSEAC will consider current staffing standards and the need for lower teacher/student ratios in special education programs to more adequately meet the needs of students with disabilities.

# Appendix A

## Mission and Structure

The State Special Education Advisory Committee (SSEAC) for the Commonwealth of Virginia is organized and functions in accordance with the mandate in the Rules and Regulations for the Administration of the Individuals with Disabilities Education Act (IDEA) and the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia.* The committee's functions include the following:

1. Advise the state education agency (SEA) of unmet needs within the state in the education of children with disabilities;
2. Comment publicly on any rules or regulations proposed by the state regarding the education of children with disabilities;
3. Advise the SEA in developing evaluations and reporting on data to the U.S. Secretary of Education under section 618 of the Act;
4. Advise the SEA in developing corrective action plans to address findings identified in federal monitoring reports under Part B of the Individuals with Disabilities Act;
5. Advise the SEA in developing and implementing policies relating to the coordination of services for children with disabilities;
6. Provide advice on eligible students with disabilities in adult prisons that have been convicted as adults and incarcerated in adult prisons;
7. Review the policies and procedures of state-operated programs, the Virginia School for the Deaf and Blind at Staunton and the Virginia School for the Deaf, Blind, and Multi-Disabled at Hampton; and
8. Prepare and present an Annual Report to the Virginia Board of Education and the Superintendent of Public Instruction. This report shall be made available to the public.

# Appendix B

## Membership

The committee is composed of representatives of stakeholder groups as prescribed by IDEA. These individuals have a common interest in meeting the educational needs of children and youth with disabilities throughout the commonwealth. The membership includes:

- eight parents of children with disabilities
- two individuals with disabilities
- a teacher
- a representative of institutions of higher education that prepare special education and related services personnel
- a local superintendent
- a local special education director
- a representative of an organization concerned with transition services
- a representative of other state agencies involved in the financing or delivery of related services to children with disabilities
- a representative of the foster care system
- a representative of a correctional agency
- a representative of private schools and public charter schools.

Members are appointed by the Board of Education to a three-year term and are eligible for reappointment for an additional three-year term. Individual citizens and organizations are invited to nominate candidates for appointment to the committee. Terms of membership are staggered to assure continuity. Members are reimbursed for expenses incurred while attending meetings; however, the membership serves without compensation. The committee is staffed by designated personnel from the Department of Education who are knowledgeable in the field of special education. The department also provides technical and clerical assistance to the committee.

# Appendix C

## Motions

During the 2006-2007 year, the SSEAC made and passed the following motions:

- That the public comment guidelines be revised.
- That the full committee approve that the executive committee complete the edited annual report to be submitted to the Board of Education.
- That the Office of Dispute Resolution and Administrative Services [Division of Special Education and Student Services, VDOE] contact the states with readable procedural safeguards documents worth emulating, as determined by the Just Children research, to determine if those documents serve as the OSEP [Office of Special Education Programs]-approved procedural documents for those states.
- That Section 4 of Article VII of the Bylaws be changed to: “Members shall be appointed by the BOE [Board of Education]. A membership committee shall recruit potential members through a nomination process, review the nominees to assure that they meet the criteria for membership, and submit the list of names to the Virginia Board of Education or the Virginia Department of Education as directed by the Virginia Board of Education for appointment."
- That the SSEAC make the following recommendations to the VDOE: a) that Indicators 15-20 in the SPP be reported to the public; b) that the format of the Oklahoma example be included in the school report card by the LEA; and c) that we do not need a larger stakeholder group but instead need a large group of "test drivers" to look at the reports and determine if they are understandable.
- That the State Special Education Advisory Committee support the Virginia Board for People with Disabilities’ effort to develop and maintain a database of contact information for individuals interested in special education. The State Special Education Advisory Committee will assist in this effort by sharing the sign-up/participant lists collected at its public comment and forum opportunities with Virginia Board for People with Disabilities for addition to the database.

## Resolutions

- Whereas the fact that the federal government is requiring that the Virginia Department of Education monitor the status of students with disabilities who have exited school and the fact that there are multi year waiting lists for many such services for children and adults with disabilities, the SSEAC recommends to the VBOE that they work with the state legislature to reduce waiting lists and also emphasize communication of availability of Medicaid waivers and availability of joining waiting lists to parents and guardians beginning at transition from preschool to elementary school and continuing through high school transition planning.

# Appendix D

TO: Dr. Judy Douglas, Director, ODR
FROM: Anne Fischer, Chair, State Special Education Advisory Committee
RE: Public comment concerning Virginia's drafting of the IDEA regulations
DATE: February 23, 2007

I'm writing to provide public comment on behalf of the State Special Education Advisory Committee (SSEAC). As you are aware, the SSEAC is a diverse group of stakeholders dedicated to addressing the needs of children with disabilities. We would like to take this opportunity to note our appreciation to you and your staff, for your time and sharing of information, as the process of revising the regulations moves forward.

The SSEAC recommends the following:

a. Expand the Forward to include information that sets the stage for the people who will need to access the regulations: teachers, administrators, parents and students. Specifically, the SSEAC encourages you to include:
    - An overview of the regulations, written in easy-to-access language,
    - IDEA 2004 intent language, including the emphasis on "high expectations," and "educating children in the regular classroom, so they can meet developmental goals and, to the maximum extent possible, the challenging expectations that have been established for all children and be prepared to lead productive and independent adult lives, to the maximum extent possible." (Section 1400(c)(5)(A)) (from the "Findings" section, IDEA 2004)
    - Information about best practices
    - IDEA 2004 purposes language – especially the provision that special education services should be designed to meet students' "unique needs and prepare them for further education, employment and independent living." (Section 1400(d)(1)(A))

The fiscal and administrative impact will be minimal, because this language will simply provide clarification and background information.

b. School Discipline: Restore the "11th Day Rule," so that functional behavioral assessments (FBAs) and Behavioral Intervention Plans (BIPs) will be provided for all students with disabilities who receive a long-term suspension or are suspended several times with a pattern of disciplinary actions. Federal law presumes that local school districts are implementing FBAs and BIPs, but frequent testimony to the SSEAC shows that Virginia has many schools which are not yet providing those services to improve students' conduct and teach skills which will be necessary in the future. The fiscal and administrative impact will be minimal, because the Virginia regulations currently require this.

c. Continue the provision for Local Advisory Committees (LACs) as it is currently written in the Virginia regulations.

d. Continue to require short-term objectives. Mutual collaboration is enhanced through communication, and families and students can work only communicate if they have adequate information. In addition, short-term objectives help families and teaching staff to realize that children are making progress, even if annual goals aren't fully mastered. The fiscal and administrative impact will be minimal, because the Virginia regulations currently require this.

e. Continue the current consent protections in Virginia's regulations. This will ensure that parental permission is required before students' special education services can be terminated, and before most significant changes in services can be implemented. The fiscal and administrative impact will be minimal, because Virginia's regulations currently require this.

f. Ensure "refusing" services is distinguished from not signing an inadequate IEP. Under the new federal regulations, if a parent "refuses" the initial provision of services, the LEA does not have to provide FAPE for those services. Often parents will not sign IEPs even though they agree with the services offered on the IEP, because they do not agree that the IEP is adequate (they see a need for more services, accommodations, etc.). VDOE should make sure that the regulations make it clear that this situation is different from a situation in which a parent "refuses" for their child to receive special education or simply doesn't want any of the services on the IEP. The fiscal and administrative impact will reduce costs, because disputes will be prevented.

g. Continue the 65-business-day timeline for evaluation and eligibility to ensure that special education services start as quickly as possible. The 60-calendar-day timeline in the federal regulations does not include eligibility determination. There will be no fiscal and administrative impact, because Virginia's regulations currently require this.

h. Define surrogate parents' roles, and provide full definitions for other non-biological parents. The fiscal and administrative impact will be cost and time savings, because clear definitions will prevent disputes and save costs by not having to re-schedule meetings, and losing teaching/learning time unnecessarily.

i. Resolution sessions:
    - Participation: parents and school officials decide collaboratively on mutually agreeable members to participate from the LRE, while meeting regulatory requirement that the LEA send at least one person who has decision-making authority. Role definition: parents speak on their own behalf, but can ask the advocate or attorney to speak as well. The fiscal and administrative impact will reduce costs, because disputes will be prevented.
    - Confidentiality protections: add language that mirrors mediation protections. Rationale: parents and schools benefit from knowing they can be forthcoming in seeking a final solution and preventing the start-up of Due Process. Fiscal and administrative impact will be cost-savings; because more effective

Resolution Sessions will save significant costs by deterring Due Process filings.

j. Clarify responsible LEA for IEP development and services for residents of group homes. Include information that emphasizes that FAPE cannot be interrupted when a child has moved to a group home, and clarify who bears responsibility in each type of situation (court placed, school placed, parentally placed). The fiscal and administrative impact will reduce costs, because disputes will be prevented.

k. Clear up conflicts between regulations, code (e.g., CSA), Standards of Accreditation (e.g., clarifying a student's anticipated diploma type should not limit access to general education courses or deter high expectations for performance on more challenging assessments). Include emphasis that the IEP team should provide input and discuss long-term expectations, fulfilling IDEA 2004 goals of high expectations and maximizing independence. The fiscal and administrative impact will reduce costs, because disputes will be prevented.

l. Clarify basis for referrals for evaluations to address IDEA 2004 new language about functional performance: Maintain current Virginia provisions, to and include language clarifying that a student's "Educational Performance" means all aspects of a child's performance in school, including but not limited to academic achievement, performance on benchmark and other tests, as well as functional performance (e.g., behavioral or social problems). Students who are having educational performance problems in school – either academic or functional performance problems – are eligible for referrals, and should be evaluated.

m. Clarify that students with functional problems which are the result of a disability are eligible for special education and entitled to a FAPE under the IDEA.

n. Maintain current process for referrals for evaluations. Currently, Virginia allows anyone to make a referral for special education evaluations. The federal regulations only allow for requests for evaluations from parents or a public agency. This is overly limiting and the current process should be maintained.

o. Clarify process and requirements related to placements in the Least Restrictive Environment. Educators and families need to know children's rights and make appropriate decisions concerning children's opportunities to learn the general education curriculum in regular education classrooms. Information found in various parts of the Federal Regulations and Virginia's guidance documents should be compiled into one clear section which clarifies LRE-related definitions, process and responsibility.

p. Continue providing IEP progress reports at the same intervals, or more frequently, as they are provided for students without disabilities. Regular communication about children's progress helps parents to reinforce learning and be involved in their children's education, and helps maintain high expectations and will more fully

include students with disabilities in accountability progress.

q. Continue to require transition planning at age 14. This is especially important for students who are unlikely to continue receiving special education services through the age of 21, and for students with the most intensive needs. It will also help ensure that IDEA 2004's mandates for maximizing independence, to the maximum extent possible, are fulfilled.

The SSEAC appreciates the opportunity to provide input into this process, and we hope that you will contact us with any questions or concerns you have about these comments.

Sincerely,
Anne Fischer, Chair