

**ADMINISTRATIVE MANUAL FOR TEACHERS
IN REGIONAL AND LOCAL DETENTION HOMES**



**STATE OPERATED PROGRAMS
VIRGINIA DEPARTMENT OF EDUCATION**

SY 2011-2012

(revised 7/11)

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ADMINISTRATIVE MANUAL

Preface

In this manual, Detention Home Education Programs (DHEPs) refer to the education programs in twenty-four regional and local juvenile detention homes which are supervised by the Virginia Department of Education. As support services to the detention homes, the DHEPs' mission is to provide appropriate educational services to school age students residing in Virginia's detention homes. Education and instructional objectives are tailored to meet the individual student's needs in coordination with the detention home staff and within the confines of the detention home. This manual references the policies and procedures found in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010.

I. Legislation, Rules, and Regulations

A. State

1. Regulations

As required by the provisions of P.L. 94-142, All Handicapped Children's Education Act, and the subsequent P.L. 105-17, Individuals with Disabilities Education Act (IDEA), Amendments of 1997, Reauthorization in 2004, and their implementing regulations, the Virginia Department of Education must ensure the federal government that all persons with disabilities age 2 through 21, inclusive, have available a free and appropriate public education. (Code of Virginia 22.1-214). The provisions of this regulation are in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010.

It is the "Responsibility of each State Board, agency and institution having children in residence," Code of Virginia (22.1-214), to provide "education and training to such children in the public school system..."

Further responsibility for children in residential programs operated by state boards, agencies, or institutions are found in the Code of Virginia 22.1-7 and 22.1-214-2.

The following assurances must be guaranteed under the requirements of state regulations:

- a. All persons with disabilities that are school age, residing in the detention homes are identified, evaluated, and have available a free and appropriate public education (FAPE).
- b. All school age children residing in detention homes who are disabled and need special education and related services are identified, located, evaluated and placed in an appropriate educational program (Child Find).
- c. Children with disabilities and their parents or guardians, or surrogates are guaranteed procedural safeguards in the process of identification, evaluation, educational placement, due process hearing procedures and the provision of a free appropriate public education (Procedural Safeguards).

- d. To the maximum extent appropriate, children with disabilities will be educated with children who are not disabled (LRE).
- e. Confidential records of children with disabilities will be properly maintained in accordance with the Virginia Code and state regulations (Confidentiality).
- f. Testing and evaluative materials utilized for the purpose of classification and placement of children with disabilities are selected and administered so as not to be racially or culturally discriminatory and by knowledgeable and trained personnel (Protection in Evaluation Procedures).
- g. An individualized education program for each child with disabilities will be maintained (IEP).
- h. A comprehensive system of personnel development to include the inservice training of general and special education instructional and support personnel, related to the needs of the disabled, is provided (CSPD).
- i. There will be ongoing parent or guardian consultation (Parent Involvement).
- j. A full educational opportunity goal is provided for all school age students with disabilities including appropriate career education, vocational education, and access to the general curriculum (IDEA), (Full Opportunity).
- k. Surrogate parents will be appointed, when appropriate, to act as advocates to serve the educational interests of children in residence who are suspected of being or are determined to be disabled (Surrogates).
- l. Children with disabilities are given the right of participating in the assessment component of Virginia's Accountability System.
- m. Educational objectives of the State Board, Agency, or Institution are clearly stated.
- n. Strategies for achieving the educational objectives and a system of evaluating the objectives of the State Board, Agency, or Institution are in place.
- o. A system of communication between education and other personnel, including detention home staff, is provided which ensures coordination of program objective(s), continuities of service(s) in the transition of a child into the educational program of the detention home.
- p. The policy manual for education employees is maintained.

2. Submission Of Policies and Procedures

DHEP will submit to the Virginia Department of Education appropriate policies and procedures of the education programs. Time frames for submission and acceptable criteria for state approval are established annually.

3. Instructional Programs

- a. The DHEP must be designed to provide a continuum of program alternatives to meet the needs of each student and may include, if appropriate, the following:
 - i) Instruction in Virginia Standards of Learning (SOLs) and basic education skills (access to general curriculum);
 - ii) Instruction in the Aligned Standards of Learning (ASOLs);
 - iii) Prevocational, vocational and career education;
 - iv) Preparation for high school graduation;
 - v) Affective education skills;
 - vi) Preparation for General Educational Development (GED®) examination;
(GED is a registered trademark of the American Council on Education and may not be used or reproduced without the express written permission of the American Council on Education.)
 - vii) Life skills;
 - viii) Employment; and
 - ix) Transition services.
- b. A minimum of 5.5 hours per day, or 27.5 hours per week of instructional time is available for each student.

B. Federal

1. Individuals with Disabilities Education Improvement Act

Individuals with Disabilities Education Improvement Act, 2004 (Public Law 108-446) requires that a free appropriate public education be provided to all eligible children with disabilities in Virginia, ages 2 through 21, inclusive. A free appropriate public education includes special education (IDEA) and related services required to meet the individual educational needs of children with disabilities and that requires their parents be protected under due process procedures.

2. Section 504 of the Rehabilitation Act of 1973

Section 504 provides that "no otherwise qualified handicapped individual... shall, solely by reason of his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." Educational programs operating in existing facilities must be designed so as to be readily accessible to persons with disabilities.

II. Functions of the Virginia Department of Education, Detention Homes, Local School Divisions and State Operated Programs.

A. Virginia Department of Education:

Authorization has been granted by statute (22.1-209.2) to the Virginia Board of Education for the establishment, operation, and supervision of education programs in regional and local detention homes. The Virginia Department of Education:

1. provides annual funding for DHEP staff, materials and supplies, equipment, travel, and in-service training;
2. contracts with local school divisions to provide for the fiscal management of the program and employment of education staff;
3. provides direct program supervision for the DHEPs;
4. provides technical assistance and consultative services in the interpretation and implementation of state and federal laws and regulations pertaining to the education of students;
5. supervises and evaluates the compliance of the education programs with state and federal laws and regulations;
6. establishes procedures for a comprehensive personnel development plan;
7. disseminates significant information derived from research, demonstration program, and projects involving the students;
8. assists in developing job descriptions for education staff; and
9. provides input into the hiring of the education administrator and teaching staff.

B. The Local School Divisions (LEAs): Code of Virginia (22.1-209.2)

1. administer the detention home budget for education employees' salaries, educational materials/equipment, and travel;
2. hire education administrators, teaching staff, and support staff;
3. establish the general policies of personnel administration; and
4. provide for the evaluation of instructional and administrative personnel.

C. Detention Home Education Program(s) [DHEPs]:

1. Educational Objectives: Education staff will:
 - a. provide education services to school age children and youth residing in regional and local detention homes;

- b. ensure that the education services provided will allow students to maintain and/or advance their current level of academic functioning and provide a smooth transition to their next educational setting;
 - c. ensure that all students identified as disabled under IDEA will have a current IEP; and
 - d. provide a system of ongoing communication, regarding the student's current educational performance with the detention home staff, the parents/guardians, and the sending/receiving school division or agency.
 2. Strategies for achieving objectives: Education staff will:
 - a. identify all school age children and youth and enroll them in the education program;
 - b. administer the Home Language Survey and DHEP Interest Inventory to all students;
 - c. review all education data from sending educational placement, provide appropriate grade level instruction and services, and contact the receiving educational placement and provide release planning (through the regulations governing the re-enrollment of such students following detainment), when applicable;
 - d. identify all school age children and youth entering with an existing IEP and update/modify the IEP to reflect the current educational setting, and develop IEPs for those students who have been determined eligible for special education services while in detention; and
 - e. inform on an ongoing basis the detention home staff, parent/guardians and sending school division or agency of the youth's current educational performance.
 3. Evaluation of objectives: Education staff will:
 - a. check the daily admissions listings and school roll;
 - b. check to see whether all students have instructional objectives/IEPs and review transfer records;
 - c. check IEPs of those students entering with an existing IEP to ensure compliance with state regulations, amending as needed, and develop initial IEPs for those students who are determined eligible while in residence at the detention home; and
 - d. check students' educational records to verify contacts with parents/guardians, school divisions and other agencies.
 4. Program Description:

Criteria for admission to and discharge from regional and local detention homes is not established by an educational authority nor are such facilities instituted for elementary and

secondary education purposes. Students are admitted to these facilities for various lengths of time and with various instructional needs and abilities. The instructional program for each student must be tailored to fit his/her individual needs.

When a student is admitted to a detention home and has an existing IEP, developed by an LEA or other legal educational entity, it is the responsibility of the DHEP staff to ensure the continued implementation of the IEP. Modifications may be needed due to the nature of the detention home. Placement in a detention home is for juvenile justice/court service reasons and is not considered to be a significant change in the education placement. The enrollment of a student with a disability in a DHEP normally precludes consideration of an education placement as close as possible to the student's home or in the school where the student would normally attend.

Students without an existing IEP will continue to receive general education services to meet their needs, but not pursuant to an IEP as is required by regulations for students with disabilities. In an effort to assure a smooth educational transition into and out of the detention home, education staff will provide a comparable education program by following as closely as possible the student's home school education program (i.e. curricula, assignments, textbooks). All curricula in DHEPs are based on the standards of learning (SOLs) and the curriculum of the LEA where the detention home is located or based on one of the school divisions served. Teachers in DHEPs are employed under 11 month contracts so that additional school days for summer enrichment may be provided to students prior to and following the regular school year.

In those instances where students in detention are suspected of being educationally disabled, it is the responsibility of the DHEP staff to follow procedures for the determination of eligibility for special education services as required by Board of Education in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010. Appropriate school authorities from the school division of legal residence will be given the opportunity to participate in this process. When a student is suspected of having a disability and the eligibility determination has not been completed prior to discharge, DHEP staff will refer the student to the receiving LEA or educational agency. The educational evaluation data pertaining to the student will be forwarded with the referral. In all instances, procedural safeguards as required by law will be afforded to protect the rights of the parents and the student.

5. Provision of Services:

DHEPs provide educational services for all school age students with disabilities in detention in accordance with their IEPs. The DHEP administrator is responsible for the coordination of the planning and implementation of child identification, evaluation efforts and education placement within the detention home. DHEPs are designed to enhance the student's current level of functioning and provide opportunities for student success. Based on the student's needs, the scope of the education services* provided may include:

- a. Educational assessment
- b. Speech, Language, Hearing and Visual screening
- c. Speech/Language therapy

- d. Physical therapy
- e. Occupational therapy
- f. Instruction and assessment based on SOLs (transferable academic credit)
- g. Remedial instruction
- h. GED® instruction (*GED is a registered trademark of the American Council on Education and may not be used or reproduced without the express written permission of the American Council on Education.*)
- i. IEP based instruction
- j. Social/affective education skills
- k. Career awareness
- l. Pre-vocational skills
- m. Vocational skills
- n. Life skills
- o. Music
- p. Art
- q. Physical education
- r. Family life curriculum
- s. Transition services

* Services that are not provided by DHEP staff to students with identified needs are contracted to be provided.

Library facilities or services are made available for both staff and students at each detention home.

Students who are unable to participate or who require modification(s) in the school day, will have a waiver/modification on file describing justifications, objectives and timelines for the waiver/modification. The waiver/modification form is signed by the detention home administrator or designee.

6. Summer Enrichment:

Education services within detention homes are provided on an eleven-month cycle. Each DHEP shall offer summer enrichment services prior to and following the traditional school year. This enrichment time should be split between before school (August) and after school (June). The purpose of enrichment is to provide students with engaging and enriching academic activities that may or may not be SOL or core area directed. Students

are not considered to be “enrolled” during this time. If a student needs extended year educational services, as indicated on the IEP, then the DHEP staff will arrange for such services (contractual) to be provided.

III. Conditions of Employment

A. Personnel Policies

All personnel employed by LEAs and assigned to DHEPs are responsible for adhering to all rules, regulations, and statutes pertaining to applicable detention home policies and to those of the LEA.

DHEP employees are expected to abide by the specific rules and regulations of the detention home relative to youth treatment, as outlined in the detention home’s personnel procedure manual. In the event of personnel policy violations, the DHEP personnel will be subject to the same disciplinary action as employees of the LEA (Exceptions: 1) During a secondary investigation the education staff person may be temporarily reassigned to a position outside of the detention home by the LEA and/or the Virginia Department of Education in lieu of suspension until the investigation is completed. 2) In regard to drug testing of employees, the LEA’s policy shall take precedence over detention home policy.)

B. Certification/Endorsement

Each State Board, Agency or Institution shall assign personnel to the education program as follows: administrative, supervisory, instructional, support and ancillary personnel holding valid professional licenses, certificates and endorsements as appropriate in the area of assignment (national standards may apply in the absence of state licensure or certification requirements.)

Additional education personnel, such as occupational therapists, physical therapists, and interpreters for the deaf, hired to provide required related services must also hold valid professional licenses, certificates, and endorsements.

C. Contracts

The termination of a program or insufficient state funding for the education program in a detention home shall entitle the school division to terminate the contracts, including continuing contracts of teachers, supervisors, and administrative personnel. Contracts, including continuing contracts of teachers, educational consultants, supervisors, and administrative personnel in DHEPs shall be drawn in compliance with the laws of the Commonwealth of Virginia and requirements of the Virginia Board of Education, including any special provisions approved by the employing local school board.

D. Evaluation

According to the Standards of Quality (2009), each school division is required to establish and maintain a cooperatively developed procedure for the annual evaluation of the performance of each employee. Since the educational staff of the DHEPs is employed through the LEA, evaluation of education personnel will be according to the policies and procedures of the LEA.

E. Lesson Plans

All teachers are expected to have daily lesson plans. They should include but are not limited to curriculum objectives, activities, materials as they relate to the Standards of Learning (SOLs) and/or the IEP. Principals/lead teachers will regularly monitor lesson plans throughout the year to assure comparability to LEA curriculum and IEP implementation.

F. Grievance Procedure

All personnel in the DHEPs will follow the grievance procedures as outlined in the policies and procedures of the employing school division (LEA contracts).

G. Tenure

Teachers who are beginning their teaching careers must serve a three-year probationary period before becoming eligible to be recommended for a continuing contract with the local school division.

Teachers who have attained a continuing contract in one school division and transfer to another school division in the Commonwealth of Virginia may be required to serve one year of probation before they are eligible for a continuing contract if it is made a part of the contract of employment.

Those teachers who have experience but do not have a continuing contract in another school division in Virginia must serve the three-year probationary period.

H. Dismissal

According to the Code of Virginia (22.1-307), any teacher may be dismissed or placed on probation for incompetence, immorality, non-compliance, conviction of a felony, or other good and just cause. Local policies may specifically delineate other causes for dismissal. Appeal and notification procedures are determined locally.

I. Reduction in Force

Reduction in Force (RIF) policies are intended to provide fair and equitable procedures for dealing with mandatory requirements for reducing the school work force. The regulations attempt to protect the long-term employment of all personnel who have been performing their duties in a satisfactory manner. Any displacement of personnel is considered a temporary circumstance to be alleviated as quickly as vacant positions become available. As contractual employees of the LEA, funded by the Virginia Department of Education, DHEP staff will not be subject to the RIF policy of the LEA without prior approval of the Virginia Department of Education.

Should the LEA or the Virginia Department of Education need to exercise the RIF policy, the initiating agency will be responsible for notifying the other. Should a reduction in force occur, the LEA, Virginia Department of Education, and the DHEP administrator will work cooperatively to devise a mutually acceptable plan.

J. Hours and Length of Contract

DHEP employees adhere to the length of the contractual day and hours established by the LEA. The length of contracts and school calendar are determined by the Virginia Department of Education.

K. Inclement Weather Policy

Educational personnel employed by a local school board and assigned to a detention home shall follow the inclement weather policy and procedures as prescribed by the LEA. However, DHEP personnel are not required to work in excess of the number of days specified in their contracts with the employing LEA.

L. Use of Substitutes

Consistency in the delivery of education services for students residing in detention homes is a major objective for DHEPs. In light of the nature of detention home settings, the DHEP staff's familiarity with the programs and students, classroom coverage in cases of short-term absences and leaves will be handled according to the needs of individual DHEPs. Education personnel shall follow their LEA's policy in regard to notification of absences /leaves. Substitutes will be used in cases of long-term absences/leaves or possible multiple absences within the school program. The use of substitutes in the above situations will be at the discretion of the DHEP administrator. Exceptions to this policy will be reviewed by the DHEP administrator and the Virginia Department of Education.

M. Inservice/Staff Development/Travel

1. For state operated programs (SOP) personnel, this policy supersedes all local school division policies regarding attendance at inservices and conferences.

According to the Standards of Quality (2009), a comprehensive system of personnel development to include the inservice training of general and special education instructional and support personnel, related to the needs of the children in residence, must be provided in the annual plan. Each SOP is responsible for planning, implementing, and evaluating an ongoing inservice training/staff development program. DHEP staff are expected to attend inservices organized by an SOP or the Virginia Department of Education for SOP personnel.

The Department encourages the participation of staff in job-related professional programs and activities whose purposes support the improvement of the education program. If schedules allow, DHEP personnel have an opportunity to participate in workshops or inservices offered by the Virginia Department of Education, the local school division and the detention home.

Opportunities to attend inservices and conferences focused on job-related topics are made available to individual staff upon request. Recognizing that the mission of the DHEP is to provide direct service to students and that resources are limited, a maximum of two (2) individuals from any one DHEP may attend a particular inservice or conference. Likewise, each staff member may be approved to attend up to two (2) inservices or conferences per

school year. Any exceptions must be approved, by the principal/lead teacher and the Virginia Department of Education.

It is the responsibility of any individual desiring to serve on a conference planning committee or submitting a proposal for a presentation to get approval from their principal or lead teacher prior to making commitments. While individuals planning to make presentations at inservices or conferences will be given priority, it should be understood that they will not automatically be granted permission to attend.

With regard to attendance at in-state and out-of-state inservices and conferences, DHEP staff participation must conform with current state regulations and guidelines. Travel the night before an inservice or conference may be considered if the program is scheduled to begin at or before 9:00 a.m. and more than two (2) hours of travel is entailed. Exceptions may be granted for individuals serving on inservice or conference planning committees if the need for last minute planning/coordination is documented.

While leave time may be granted to attend a conference or inservice, such approval in no way obligates the DHEP or Virginia Department of Education to defray the conference or inservice related costs of the participant. In many cases, it may be necessary for the individual participant to defray some part or all of the associated expenses.

2. Reimbursement for all travel follows employing LEA policy.

N. Student/Teacher Ratio

All detention homes are required to maintain the ratios specified by state regulations for the type of student with disabilities being served. All students receive instruction in DHEPs. While no specific ratio of instructional personnel is required for regular education students, principals and lead teachers endeavor to provide essentially the same ratio of teachers to students as is applied to the disabled population. Student/teacher ratios are monitored on a monthly basis by the Virginia Department of Education.

Staff who are required to provide one on one instruction/services to students are encouraged to be cognizant of and sensitive to basic human rights issues. Individuals should make attempts to be in close proximity to other staff and to inform staff of specific whereabouts and nature of instruction/services provided to students at all times.

O. Staff/Student Relationships

1. Staff Visitation, Passes, etc.:

In order for staff to participate in activities with students to whom they are not normally assigned, on/off duty hours, they must check with the detention home superintendent.

2. Gift Giving and Receiving:

Gift giving may not be appropriate depending on detention home policy; therefore, when a staff member provides small items such as candy, soft drinks, etc. to a student, the staff member has the obligation to insure that this is approved by the detention home

administration. It is generally not acceptable to receive gifts of material value from students. Therefore, staff should refrain from the receipt of such gifts. If a staff member receives a gift from a student or family, the principal/lead teacher must be notified to determine whether the gift should be returned to the family or other action taken. In all cases, the receipt of money from students is prohibited.

3. Financial Transactions:

Employees are prohibited from selling items to students. Employees may only buy goods from students when it is part of a detention home approved activity, such as an arts and crafts or bake sale. It is prohibited for a staff member to gamble with, bet with, borrow from or loan money to a student.

4. Personal Relationships:

- a. Relationships with students which are not considered professional are prohibited. Employees, on their days off, shall not make or receive telephone calls to/from students. Also, employees shall not be involved in activities/programs with students outside of the instructional school day, including evenings and weekends. Exceptions that are related to the DHEP's purpose may be determined on a case-by-case basis by the DHEP administrator.
- b. DHEP staff shall address students with courtesy and respect. When a student asks a question or makes requests that staff cannot answer or grant within their job description, they shall refer the student to the appropriate person.
- c. DHEP staff are prohibited from engaging in sexual activity with students.
- d. Under normal circumstances, staff should not pick-up students and return them to the detention home on their own. DHEP staff are to notify the detention home authorities of such observations (as a student hitchhiking or leaving the grounds), in order that the detention home authorities can be dispatched to the student's location.

P. Reporting Suspected Abuse, Neglect, and Misconduct

In cases of observed or suspected physical abuse, neglect, and misconduct in which a student is involved, all incidents should be reported to the detention home administrator. Likewise, complaints from students made to a DHEP staff should be reported to the detention home administration. The detention home administrator will immediately report the suspected abuse, neglect or misconduct to the proper authorities. DHEP staff are mandated reporters of child abuse and neglect. Reporting such incidents to detention home administration meets this requirement.

Q. Universal Precautions

Infectious disease control poses special concerns for personnel in state detention homes. It is necessary that prudent precautions be taken for protection against transmission of infectious diseases and also that the responsibilities of staff in health care settings be defined. As required by Occupational Safety and Health Administration (OSHA) and OSHA regulations, health care

workers shall at all times observe universal precautions with respect to treatment and care of patients. Health care workers who fail unjustifiably to follow precautions shall be subject to appropriate discipline by their supervisors.

Given their level of involvement with children in the mental health system, it follows that education personnel employed by LEAs and assigned to DHEPs are identified accordingly to the above referenced regulations as being health care workers. DHEP staff must also be accountable for universal precautions compliance regarding all students. Per OSHA standards, new employees who have the potential to be exposed to human blood, body fluids, or tissue must attend an orientation session on universal precautions prior to engaging in any activity which may result in exposure. Retraining on universal precautions is to be provided annually, with appropriate documentation of training and retraining maintained by the DHEP administrator for at least three years.

As part of the universal precautions orientation, DHEP staff shall receive additional information about the Hepatitis B vaccine and shall be offered free inoculations. In the event an employee declines the vaccine, a form declining the vaccine must be completed.

If a DHEP staff member has an exposure to blood or bodily fluids, that staff member shall immediately go to the employee health department or, if that department is closed, to the emergency room. It is also the responsibility of the employee to report the incident in writing, using the detention home and/or LEA standard incident report form.

IV. Department of Health and Human Services, Office of Refugee Resettlement Division of Unaccompanied Children's Services (ORRDUCS)

Through the Federal Department of Health and Human Services, Office of Refugee Resettlement Division of Unaccompanied Children's Services (ORRDUCS) program, undocumented children under the age of eighteen (18) are placed in designated units in some juvenile detention centers. The students are enrolled in the center's education program and are awarded all the rights and privileges afforded all school-age children in Virginia.

Students served by the ORRDUCS program are, to the greatest extent possible, integrated with the general population and receive a daily minimum of 5.5 hours of instruction provided by highly qualified teachers. ORRDUCS students also receive appropriate special education services and all services for which English Language Learners (ELLs) are eligible. In addition, students are administered appropriate State Standards of Learning (SOL) tests and the federally required test for ELLs, the ACCESS for ELLs. Instructional emphasis for the students is congruent with the World-Class Instructional Design and Assessment (WIDA) English language proficiency standards and includes social and instructional language, the language of language arts, the language of mathematics, the language of science, and the language of social studies.

V. Students Suspected of Being Disabled

For students suspected of being disabled or who are disabled and enrolled in DHEPs, the timelines in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010 apply. The following procedures are to be followed:

A. Child Find

All students are entitled to education services upon admission. The DHEP administrator or designee will review the daily admissions roster of the facility for any new students that would be in the age appropriate group for education.

DHEPs maintain an active and continuing child find program through the detention home, LEAs and parental involvement that is designed to identify, locate, and evaluate those students who are in need of special education and related services. Where such students are determined to be eligible for special education services, DHEPs are required to provide appropriate programs and placements consistent with each student's IEP.

B. Screening

The screening process is initiated, upon DHEP enrollment, for students who have not previously been enrolled in a public school or other DHEPs, within sixty (60) business days of enrollment. Screening, using both observational and performance techniques, is conducted in a nondiscriminatory manner in the areas of speech, voice, and language; vision and hearing; and fine and gross motor functions with all procedural safeguards carefully maintained. These procedural safeguards include written notice, when appropriate; confidentiality; and maintenance of the student's scholastic record.

A teacher or specialist may screen a student for the purposes of determining appropriate instructional strategies for curriculum implementation. This screening shall not be considered an evaluation for eligibility for special education and related services and therefore, does not require parental consent. The information obtained from this "screening" may not be considered an evaluation for eligibility later on, but it may be used later during the evaluation-eligibility determination as part of reviewing the student's educational record.

In the event of court ordered placements, the DHEP administrator will contact the court system for clarification of parental rights, if necessary. School records shall be obtained from LEAs, as well as from other agencies with pertinent information including evaluations by Community Service Boards (CSB's), and correctional facilities, etc.

All pertinent records will be reviewed and appropriate referrals will be made to a school-based team. The team shall consist of at least three of the following persons:

1. DHEP Administrator or designee;
2. Teachers;
3. Specialists; and
4. Referring source, as appropriate (except when referring source would breach confidentiality of child).

The school-based team shall meet within ten (10) business days following the referral. The team determining what evaluation data needs to be obtained may review local and state assessments; classroom-based observations; the academic achievement and related

developmental needs of the child; and in part, determine in addition to the other considerations, what, if any, data is needed to determine the educational needs of the child. Actions by the team shall be documented in writing and shall include information upon which a decision was based. The formal assessment components shall not be initiated (collected) before referral to the administrator and parental consent has been obtained.

C. Referral

Students suspected of being disabled shall be referred by the school-based team or other referring source/s to the administrator for a special education evaluation. A parent, SEA (VDOE), or other State agency or school division can also request an initial evaluation. The referral to the administrator from the school-based team shall be made within five (5) business days following the determination by the school-based team that the student is suspected of having a disability. The administrator shall:

1. Record the date, reason for referral and name(s) of the person/agency making the referral;
2. Implement procedures for maintaining the confidentiality of all data and institute procedural safeguards to:
 - a. inform the parent/surrogate/individual of the referral in the native language or primary mode of communication, unless it is clearly not feasible to do so;
 - b. advise the parent/surrogate/individual of his/her rights in the native language or primary mode of communication; and
 - c. secure written permission of the parent for the assessment;
3. Initiate the special education evaluation, and
4. Notify the referral source, when appropriate, of the results of the decision regarding determination of eligibility.

Other agencies, e.g., CSBs, hospitals, Corrections, Social Services, Virginia Department of Behavioral Health & Developmental Services (DBHDS) etc., may refer students upon admission. These referrals shall be made to the administrator who initiates the child study process.

D. Evaluation

1. The DHEP procedures for the evaluation of referred students include the following:
 - a. prior written notice (in native language);
 - b. notice of procedural safeguards;
 - c. opportunity for independent evaluation;
 - d. informed parental consent;

- e. assignment of surrogate parent when necessary;
 - f. opportunity for an impartial due process hearing;
 - g. confidentiality;
 - h. opportunity for examination of records; and
 - i. nondiscriminatory testing.
2. Evaluation procedures require a variety of tools and strategies to gather relevant, functional, developmental and academic information that are:
- a. neither culturally nor racially discriminatory;
 - b. provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally unless it is clearly not feasible to so provide or administer;
 - c. tests are validated for the specific purpose for which they are used; and
 - d. administered by trained and knowledgeable personnel in conformance with the instructions provided by their producer.
 - i) Assessment and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient; however, the instruments must assess the relative contribution of cognitive and behavioral factors.
 - ii) Tests are selected and administered so as to best ensure that when a test is administered to a student with impaired sensory, motor, or communication skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factors the test purports to measure rather than reflecting the student's impaired sensory, motor, or communication skills (except where those skills are the factors which the test purports to measure);
 - iii) No single measure or assessment shall be used as the sole criterion for determining whether the child is a child with a disability and for determining the educational needs of the child;
 - iv) The evaluation shall be conducted by a multi-disciplinary team or group of persons, including at least one teacher or other specialist with knowledge in the area of suspected disability, and includes information provided by parents.
 - v) For a student suspected of having a specific learning disability, the multi-disciplinary team:

- a) shall include the student's regular teacher or if the student does not have a regular teacher, a classroom teacher qualified to teach a student of that age, and
 - b) shall include at least one person qualified to conduct individual diagnostic examinations of students such as a specific learning disabilities teacher, school psychologist, speech-language pathologist or remedial reading teacher.
- vi) For a student suspected of having a specific learning disability, the evaluation must include an observation of academic performance in the regular classroom by at least one team member other than the student's regular teacher.
- vii) Each student is assessed by a qualified professional in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and adaptive behavior. Parents are provided an opportunity to participate, if they so request, in the consideration of the areas to be assessed. Parents must be provided written notification of this right. However, the hearing of each student suspected of having a disability shall be screened prior to determining eligibility for placement in a special education program. If the first screening is failed, a second hearing screening test shall be completed not less than 15 nor more than 45 calendar days after administration of the first screening test. A complete audiological assessment, including tests that will assess inner and middle ear functioning, must be performed on each student who fails both hearing screening tests.
- viii) Each DHEP will solicit and consider pertinent information from the agency that has been assigned legal custodial rights of a student with disabilities concerning evaluation of such student.
- ix) Eligibility for special education and related services is determined within 65 business days after request for such services by the child study committee to the administrator.
- x) Materials and procedures used to assess a child with limited English proficiency are selected and administered to ensure that they measure the extent to which the child has a disability and needs special education, rather than measuring the child's English language skills.
- xi) A variety of assessment tools and strategies are used to gather relevant functional, developmental, and academic information about the child, including information provided by the parent(s), and information related to enabling the child to be involved in and progress in the general curriculum, that may assist in determining whether the child is a child with a disability and the content of the child's IEP.
- xii) The assessment tools and strategies used provide relevant information that directly assists persons in determining the educational needs of the child.

- xiii) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions (e.g., the qualifications of the person administering the test or the method of test administration) shall be included in the evaluation report.
 - xiv) Any nonstandardized assessment administered by qualified personnel may be used to assist in determining whether the child is a child with a disability and the contents of the child's IEP.
 - xv) The evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.
 - xvi) Technically sound instruments are used that may assess the relative contribution of cognitive and behavioral factors, in addition to physical development factors.
- e. The evaluation report(s) shall be available at no cost to the parent(s) within two business days prior to the meeting to determine eligibility.
3. Assessment Components - Every effort will be made to utilize current (completed within 365 calendar days or less) assessment data obtained from LEAs, hospitals, correctional facilities, Social Services, DBHDS, and CSBs or other appropriate sources. (These requirements are also applicable when a reevaluation is conducted.) Data will be updated as necessary by appropriate professionals (when necessary, DHEP will contract for services).

The DHEP administrator shall schedule and assign responsibility for the multi-disciplinary assessment. The eligibility of students for special education programs and related services shall be based upon assessments provided by qualified professionals in all areas related to the suspected disability, including, where appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, motor abilities, and adaptive behavior. This may include educational, medical, socio-cultural, psychological, or developmental assessments. However, the hearing of each student suspected of having a disability shall be screened during the eligibility process prior to initially determining eligibility for placement in a special education program. A complete audiological assessment, including tests which will assess inner and middle ear functioning, must be performed on each student who fails two hearing screening tests. The second hearing screening test shall be completed not less than 15 or more than 45 calendar days after administration of the first screening test. Reports from all assessments are provided in writing.

Parents are invited to participate in the consideration of the areas to be assessed. Parents are provided written notification of this right.

A description of the possible assessment components follows:

- a. Educational: a written report describing current educational performance and identifying instructional strengths and weaknesses in academic skills and language

performance.

- b. Medical: a written report from a licensed physician indicating general medical history and any medical/health problems that may impede learning.
 - c. Socio-cultural: a written report from a qualified visiting teacher or school social worker based on the use of information collected through social appraisal instruments which shall include background and social/adaptive behavior in home, school, and community.
 - d. Psychological: a written report from a qualified psychologist based on the use of a battery of appropriate instruments that shall include an individual intelligence test(s) and psycho-educational tests. Also, when appropriate, a clinical/psychiatric evaluation shall be included.
 - e. Developmental: a written report or assessment of how the student functions in the major areas of development such as cognition, motor, social/adaptive behavior, perception, and communication, where required in the regulations for assessing the specified disability.
 - f. Other, such as: speech, language, etc., where appropriate.
4. Assessments of children with disabilities or suspected of having a disability, who transfer between a school division and DHEP in the same academic year, are coordinated with those children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

E. Eligibility

Eligibility of students for special education programs and related services shall be determined by a team of qualified professionals and the child's parent. Within 65 business days of the receipt of the referral by the special education administrator or designee, the student's eligibility for special education and related services is determined. An exception to the 65 day time frame shall apply to DHEP if a child enrolls in a DHEP after the relevant time frame has begun and prior to a determination by the child's previous local educational agency as to whether the child is a child with a disability. However, this exception does not apply if the subsequent local educational agency is making sufficient progress to ensure a prompt completion of the evaluation, and the parent and subsequent local educational agency agree to a specific time when the evaluation will be completed. A second exception to the time frame applies if the parent repeatedly fails or refuses to produce the student for the evaluation.

The eligibility group shall follow due process procedures in the determination of eligibility and in ensuring the confidentiality of records. A copy of the evaluation reports will be made available to the parent(s) no later than two (2) business days before the meeting to determine eligibility. The documentation of determination of eligibility will be given to the parent.

1. Membership of the eligibility committee shall include, but not be limited to, parent(s), the general and special education teachers, personnel representing at least one of the disciplines providing assessment components and the DHEP administrator. At least one

representative serving on the eligibility committee must have either assessed or observed the student. The home LEA and the referral source shall be invited and encouraged to attend the eligibility committee meeting.

2. The eligibility group shall review the assessment components, any pertinent information reported by an agency assigned legal custody of the student, and any other special reports to determine if the student has a disability which requires a special education program and related services. A student shall not be determined to have a disability if the factor for such determination is lack of appropriate instruction in reading including essential components of reading instruction, lack of instruction in math, or limited English proficiency.
3. A multi-disciplinary team may determine that a student has a specific learning disability if:
 - a. the student does not achieve adequately for the child's age or meet Virginia-approved grade level standards in one or more areas when provided with learning experiences and instruction appropriate for the child's age or Virginia-approved grade-level standards.
 - b. the team finds that a student has a severe discrepancy between achievement and intellectual ability in one or more of the following areas:
 - 1) oral expression;
 - 2) listening comprehension;
 - 3) written expression;
 - 4) basic reading skills;
 - 5) reading comprehension;
 - 6) reading fluency skills;
 - 7) mathematical calculations; or
 - 8) mathematical problem solving.

OR

The DHEP may determine that a child has not responded to research-based intervention, or the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, Virginia-approved grade-level standards, or intellectual development, that is determined by the group to be relevant to the identification of a specific learning disability, using appropriate assessments.

- c. the multi-disciplinary team may not identify a student as having a specific learning disability which is primarily the result of:
 - 1) a visual, hearing or motor impairment;

- 2) intellectual disability;
 - 3) emotional disability; or
 - 4) environmental, cultural, or economic disadvantages; or
 - 5) limited English proficiency.
4. The eligibility group shall produce a written summary of minutes that consist of essential deliberations supporting its findings as to the eligibility of each student for a special education program and related services. The minutes shall be signed by each eligibility committee member present.
- a. The written summary shall be maintained in the student's confidential file.
 - b. A summary statement of the eligibility committee's recommendations shall be forwarded by the committee to the Individualized Education Program (IEP) committee upon determination of eligibility. The summary statement may include recommendations for services. Specific placement recommendations shall not be included.
 - c. The written summary concerning students identified as learning disabled shall include:
 - i) a statement indicating whether or not the student has a specific learning disability;
 - ii) the basis for making the determination, including an assurance that the determination has been made in accordance with the provisions of this section;
 - iii) relevant behavior noted during the observation and the relationship of that behavior to the student's academic functioning;
 - iv) educational relevant medical findings, if any;
 - v) information indicating whether or not there is a severe discrepancy between the student's achievement and ability which cannot be corrected without special education and related services, or relevant information concerning the role of Response to Intervention (RTI) in determining eligibility, if applicable;
 - vi) effects of any environmental, cultural, or economic disadvantage, as determined by the team; and,
 - vii) a statement by each eligibility committee member that the summary reflects his/her conclusions. If it does not, the team member must submit a separate statement presenting his/her conclusions.

5. Upon determination of eligibility the IEP committee will convene to develop the IEP. Due to the short term stay in detention home settings, IEPs will be written as soon as possible but no later than 30 calendar days from determination of eligibility. In those cases where the student is eligible for special education services and where the parent/surrogate parent/individual does not attend the eligibility meeting, the DHEP administrator will contact the parent/surrogate parent/individual and schedule an IEP meeting as specified by state regulations. Once eligibility has been determined, adding a related service to an existing IEP is an IEP committee function. The assessment component or other relevant data that is required or necessary for the proposed related service is forwarded to the IEP committee in order that appropriate goals and objectives can be developed.

F. Termination of Services

Termination of a child's eligibility for special education and related services shall be initiated by the IEP team.

1. Termination of special education services occurs if the eligibility group determines that the child is no longer a child with a disability who needs special education and related services and if written parental consent is secured.
2. A related service may be terminated during an IEP meeting without any determination that the child is no longer a child with a disability who is eligible for special education and related services. The IEP team making the determination shall include personnel representing the related services discipline(s) in person, by telephone, or by similar electronic means and make the determination based on current data in the child's education record, or by evaluating the child. Written parental consent shall be secured prior to the termination of partial or complete related services.
3. If the parent(s) revoke consent in writing for the child to continue to receive special education and related services, the DHEP will follow procedures above to terminate the child's eligibility or use other measures as necessary to ensure that parental revocation of consent will not result in the withdrawal of a Free Appropriate Public Education for the child.
4. Evaluation is not required prior to termination due to graduation with a standard or advanced studies diploma or reaching age 22. However, prior to the student graduating or exceeding the age of eligibility, the school division must provide the student with a summary of the student's academic achievement and functional performance, including recommendations on how to assist the student in meeting postsecondary goals.

G. Student's Status Pending Determination of Eligibility

1. The student shall remain in the current educational placement, unless released from the detention home, during determination of eligibility for special education and related services.
2. A student with a disability undergoing reevaluation shall be placed with consent of the parent in a special education program consistent with the current IEP during the process of

determination of eligibility for special education upon transfer from another SOP, LEA or another state agency.

3. Prior to a student completing the requirements for graduation, the student and parents will be notified in writing that a meeting will be held to discuss termination of education services.

H. Service Delivery for Students Determined Eligible for Special Education

1. Continuum of Services

Due to security issues in detention homes, most students receive education services within the confines of the detention home. No single model for delivery of services on the continuum of services is used. On-unit instruction may occur when the detention home staff keeps students from coming to school due to safety and security issues. An education waiver is placed in the student's file and is signed by the detention home administrator. The instructional objective/IEP is modified according to the educational waiver.

A "case manager" is used in the detention home education programs. This model allows for more flexibility in scheduling and meeting the needs of students with disabilities. When a detention home does not have a teacher with endorsements in the area of a student's exceptionality, the DHEP will consult with a teacher or administrator within the LEA who has that area of endorsement to provide guidance to the DHEP staff in planning for and teaching the student.

2. Least Restrictive Environment (LRE)

Each DHEP shall establish and implement procedures that satisfy requirements as follows:

- a. To the maximum extent appropriate, students with disabilities are educated with students who are not disabled; and
- b. Documentation the student is placed in the least restrictive environment while in a secure facility. This documentation appears in the educational record. The least restrictive environment is also noted on the student's IEP.
- c. Special class placement, separate schooling or other removal of students with disabilities from the regular education environment occurs only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.
- d. Provide or arrange for the provision of nonacademic services and extracurricular services and activities as provided for non-disabled students. Each student with disabilities participates with non-disabled students in those services and activities, to the maximum extent appropriate to the needs of the student with disabilities.

3. Safeguards in Evaluation, Eligibility and Placement

- a. In interpreting evaluation data and in making eligibility and placement decisions, each DHEP shall:

- i) draw upon information from a variety of sources, that may include aptitude and achievement tests, parent input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - ii) ensure that information obtained from all of these sources is documented and carefully considered;
 - iii) ensure that the placement decision is made by a group of persons, including persons knowledgeable about the student, the meaning of the evaluation data, and the placement options; and
 - iv) ensure that in selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services which the student needs;
 - v) ensure that a student with a disability is not removed from education in age appropriate regular classrooms solely because of needed modifications in the general curriculum
- b. If it is determined that a student has a disability and needs special education and related services, an IEP will be developed for the student.

4. Transportation

The DHEP is not responsible for providing transportation for students in the detention home.

5. Reevaluation

Reevaluations occur if the DHEP determines that the educational and related services needs, including improved academic achievement and functional performance of the child, warrant a reevaluation or if the child's parents or teacher request one. Virginia Regulations also limit reevaluations to not more than once a year, unless the parents and DHEP agree otherwise. If the DHEP refuses to conduct a reevaluation because it has already done one within the year, the DHEP needs to document this refusal through written prior notice.

Parental consent and written notice is required for all reevaluations. However, it is not necessary if the DHEP can demonstrate that reasonable documented measures were taken to obtain consent and the parent did not respond. If the parent refuses consent, the DHEP may pursue those evaluations by using due process or mediation procedures or decline to pursue the reevaluation. Parent consent is not required before:

- a. review of existing data as part of an evaluation/re-evaluation;
- b. a teacher's or related service provider's observation or ongoing classroom evaluations;
- c. administering a test or other evaluation that is administered to all children unless, parental consent is required before administration of that test or evaluation.

A reevaluation shall be conducted at least once every three years, unless the parent and the DHEP agree that a reevaluation is unnecessary. The 3-year reevaluation may be conducted without new formal assessment data, focusing on information provided by parents, current classroom assessments and observations, and other data determined to be needed by the IEP team and others. If the IEP team determines no additional data is needed to decide whether the child continues to be a child with a disability and to determine the child's educational needs, the notification to the parent must include the parent's right to receive an evaluation about the child's educational needs, in addition to whether the child continues to be a child with a disability. Evaluation need not consist of all the same assessments as long as the reevaluation includes assessment in all areas related to the disability. If three years have not elapsed and the parent or teacher requests that only specified areas to be addressed by additional evaluation, and conditions do not warrant a reevaluation or an assessment which is more comprehensive than that requested by the parent or teacher, then the DHEP may limit the assessment to those areas in which the parent or teacher requested.

6. Student On-unit Instruction

Students who are unable to participate in or who require modification(s) in the school day because of medical /security reasons, will have a Waiver/Modification on file describing justifications, objectives and timelines for the Waiver/Modification. The detention home superintendent or designee must sign the Waiver/Modification form. When practical or appropriate based on resident and security need, a plan may be put into place to deliver instruction to students not in school on their pod or unit, or through cell/room doors.

7. Suspension or Expulsion of Students with Disabilities/Dangerous Students with Disabilities

Students are placed in DHEPs for reasons other than education. All students residing in detention homes are afforded the opportunity to participate in an education program. If for some reason a student exhibits a behavior which is in violation of school rules or poses a danger to oneself and/or others, then the detention home staff will review the situation and make a determination as to what is in the best interest of the student or other students. Under no circumstances are students denied educational services. If the student is denied services in the classroom setting, then a Waiver/Modification is on file describing justifications, objectives, timelines and to what extent and where educational services will be provided.

8. Assistive Technology

Each DHEP shall ensure that assistive technology devices or assistive technology services, or both, are made available to a student with a disability if required as a part of the student's IEP:

- a. Special Education;
- b. Related Services; or
- c. Supplementary aids or services.

9. Education Interpreting Services

I. Individualized Education Program

1. Regulations: Specific requirements for the development and implementation of the IEP are found in the Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010.
2. Accountability:
 - a. An IEP must:
 - i) be in effect before special education and related services are provided to a student; and
 - ii) be developed within 30 calendar days of a determination that the student needs special education and related services, with placement affected as soon as possible.
 - b. Each DHEP is responsible for initiating and conducting meetings to develop, review, and revise the IEP of a student with a disability.
 - c. Each DHEP will initiate and conduct meetings periodically to review each student's IEP and, where appropriate, revise its provisions. A meeting must be held for this purpose at least once a year.
 - d. Each DHEP will provide special education and related services to a student with disabilities in accordance with the child's IEP.
3. Participants in Meeting:
 - a. The membership of IEP team is:
 - i) the parent(s) of a student with a disability;
 - ii) not less than one regular education teacher of such a student (if the student is, or may be, participating in the regular education environment);
 - iii) not less than one special education teacher, or where appropriate, at least one special education provider of such a student;
 - iv) a representative of the DHEP who—
 - 1) is qualified to provide, or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
 - 2) is knowledgeable about the general curriculum; and
 - 3) is knowledgeable about the availability of resources of the local education agency;

- v) an individual who can interpret the instructional implications of evaluation results;
- vi) at the discretion of the parent(s) or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and
- vii) whenever appropriate, the student with a disability;
- viii) parents and school DHEP may jointly agree in writing to excuse an IEP team member from attending the IEP meeting:
 - a. because the area of the curriculum or related services is not being modified or discussed.
 - b. a member may be excused even if their curriculum or service area is being discussed by the written agreement of the parent and the school division. The excused IEP team member shall submit their input to the parent and IEP team in writing when it is anticipated that there will be discussion regarding the modification of the member's curriculum or service area.
- b. For a student with a disability who has been evaluated for the first time, the DHEP will ensure that:
 - i) a member of the eligibility group participates in the meeting; or
 - ii) the representative of the DHEP, the student's teacher, or some other person is present at the meeting who is knowledgeable about the evaluation procedures used with the student and is familiar with the results of the evaluation.

4. Parent Participation

- a. The DHEP will take steps to ensure that one or both of the parents, the LEA, and a representative of the agency assigned legal custody of the student with disability are present at each meeting or are afforded the opportunity to participate, including:
 - i) notifying the LEA, parents, and agency assigned legal custody of the meeting early enough to ensure that they will have an opportunity to attend;
 - ii) scheduling the meeting at a mutually agreed time and place;
 - iii) arranging for an interpreter for parents who are deaf or whose native language is other than English, and
 - iv) consolidating reevaluation and IEP meetings. Meetings may be held by using alternate means such as videoconference or conference call if the parent and DHEP agree.

- b. The notice given to the LEA, parents, and agency assigned legal custody, must indicate the purpose, time, and location of the meeting, and who will be in attendance, including a statement that the parents may also invite or include others who have knowledge or expertise about the child.
 - c. If transition is to be discussed for a student with a disability, beginning at age 14 or younger if appropriate, the notice will indicate that a purpose of the meeting will be to consider transition services and that the student will be invited to attend, as will other agencies, as appropriate.
 - d. If neither parent can attend, then the DHEP shall use other methods to ensure parent participation, including individual or conference telephone calls.
 - e. A meeting may be conducted without the student's parent(s) attending if the DHEP is unable to convince them that they should attend. In this case, the DHEP must have a record of the attempts to arrange a mutually agreed on time and place, such as:
 - i) detailed records of telephone calls made or attempted and the results of those calls;
 - ii) copies of correspondence sent to the parents and any responses received;
 - iii) detailed records of visits made to the parents' home or place of employment and the results of those visits.
 - iv) documentation that the parent has the right to understand the proceedings at a meeting, including arrangement, by the DHEP, for an interpreter for parents who are deaf or whose native language is other than English.
5. The DHEP will give the LEA, parent, custodial agency, and student, when appropriate, a copy of the IEP at no charge.

6. IEP Development - The IEP team shall consider:

- a. student's strengths including the academic, developmental and functional needs of the student
- b. parent concerns for enhancing the education of their child
- c. evaluation results of the initial or most recent evaluation of the child
- d. involvement in the general curriculum
- e. strategies and supports to address behavior, including positive behavioral intervention when the student's behavior impedes learning or that of others
- f. language needs of IEP students with limited English proficiency
- g. Braille instruction for students who are blind or visually impaired

- h. language and communication needs of students who are deaf or hard of hearing
 - i. assistive technology needs
 - j. the academic, developmental, and functional needs of the child
 - k. the communication needs of the child
 - l. the child's needs for benchmarks or short-term objectives
7. Content of the Individualized Education Program - The IEP for each student must include:
- a. a statement of the student's present level of academic achievement and functional performance;
 - i) The statement should accurately describe how the student's disability affects the student's involvement and progress in the general education curriculum.
 - ii) The statement should be **written in objective measurable terms**, to the extent possible. Test scores, if appropriate, should be self-explanatory or an explanation should be included.
 - iii) There should be a direct relationship between the present level of performance and other components of the IEP.
 - b. **a statement of measurable annual goals**, including both academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and progress in the general curriculum and other educational needs that result from the child's disability. Benchmarks or short-term instructional objectives may be used for all students with disabilities but must be used for those students who will participate in curriculum driven by the Aligned Standards of Learning and be assessed through the Virginia Alternate Assessment Program (VAAP).
 - c. a statement of the specific special education and related services and supplementary aids and services based on peer-reviewed research to the extent practicable to be provided to the student, or on behalf of the student, and a statement of the program modifications or supports for school personnel that will be provided for the student to advance appropriately toward attaining the annual goals, to be involved and progress in the general curriculum, to participate in other nonacademic activities, to be educated and participate with other students with disabilities and non-disabled students, and an explanation of the extent, if any, to which the student will not participate with non-disabled students in the regular class and activities.
 - d. the projected dates for initiation of services and the anticipated frequency, location, and duration of the services and modifications to include if appropriate extended school year services; and
 - e. an appropriate objective criteria and evaluation procedures and schedules for determining, at least annually, whether the short-term instructional goals and

objectives are being achieved. The IEP Team will determine the frequency of IEP goal progress reporting to parents.

- f. a statement that the student shall participate in state and/or district assessments including a statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state and district-wide assessments. If the IEP team determines that the student shall take an alternate assessment, there needs to be a statement of why the student cannot participate in the regular assessment, how the child's nonparticipation in the assessment will impact the child's courses; promotion; graduation with a modified standard, standard, or advanced studies diploma, and why the particular alternate assessment selected is appropriate for the student.
- g. Beginning not later than the first IEP to be in effect when the student is 14, and updated annually thereafter appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and where appropriate, independent living skills; the transition services (including courses of study) needed to assist the student in reaching those goals;
- h. Beginning at least one year before the student reaches the age of majority under state law, the student's IEP shall include a statement that the student and parent(s) have been informed of the rights under this title, if any, that will transfer to the student on reaching the age of majority.
- i. A statement as to whether or not the student will participate in Family Life Education.

8. Placements:

- a. Each student with a disability's educational placement:
 - i) Is determined at least annually; and
 - ii) Is based on his/her IEP.
- b. The various alternative placements are available, to the extent necessary, to implement the IEP for each student with disabilities.
- c. In selecting the least restrictive environment, consideration is given to any potential harmful effect on the student or on the quality of services that he/she needs.
- d. The placement decision shall include consideration of the student's social and personal needs as well as the student's level of educational functioning.
- e. For those students with disabilities residing in detention homes who are eligible to be appropriately placed in public school programs, see Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010.

J. Procedural Safeguards

Procedural Safeguards will be guaranteed; a copy of the Virginia Special Education Procedural Safeguards Requirements under the IDEA, August 2009, will be provided to all

parents, guardians or surrogates annually, upon request, upon initial evaluation, and upon receipt of a complaint. Each DHEP will establish and implement procedural safeguards as defined in Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010.

1. Independent Educational Evaluation (IEE):

The parent(s) of a child with a disability has the right to obtain an independent education evaluation of the child. Upon request, the DHEPs provide parents with information about where an IEE can be obtained and applicable criteria. If the request for an IEE is the result of a parent disagreeing with the evaluation conducted by a DHEP, an IEE is provided, without unnecessary delay, at public expense. Concomitantly, a DHEP has the right to initiate a due process hearing to show that its evaluation is appropriate. If the final decision is that the DHEPs' evaluation is appropriate, the parent may still pursue an IEE at his expense. It remains the responsibility of the DHEP to consider the results of the IEE, whether or not at public expense, in any decision regarding a free appropriate public education for the student. If a hearing officer requests an IEE as part of a hearing, it must be at public expense. In all instances where an IEE is conducted at public expense, the criteria under which the evaluation is obtained must be the same as those which the DHEP uses when initiating an evaluation.

2. Written Notice/Parental Consent:

Before a DHEP proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student with a disability; or the provision of a free appropriate public education, the parent(s) will receive prior written notice and a copy of Virginia Special Education Procedural Safeguards Requirements under the IDEA, August 2009. In addition, the parent must sign a consent form prior to a pre-placement evaluation or reevaluation; initial placement of a student in a program providing special education and related services; any change in identification of a student with a disability; any change in the child's education program/placement, including any partial or complete termination of special education and services; and any evaluation which is conducted other than the assessment components required for the triennial evaluations. The form also states that their consent is voluntary and may be revoked until the first day of the placement. If parents have failed to provide consent for services, the DHEP may not use due process to seek to provide services and DHEP will not be considered to have failed to provide FAPE to the student, and shall not be required to convene IEP meetings about the student.

Except for pre-placement evaluation and initial placement, consent or refusal to give consent for those other situations requiring consent shall be given by the parent within ten business days after notice is received. In the absence of such consent, a DHEP may proceed as if consent had been granted, and the parent must initiate due process to contest the action. If the parent refuses to give consent, the DHEP shall attempt to resolve parental withholding of consent through documented reasonable means. If those methods are not successful, the DHEP must use other measures as necessary to ensure that, except for pre-placement evaluation and initial placement, parental refusal to consent will not result in a denial of a necessary free appropriate public education.

The above cited publication informs parents of all the procedural safeguards afforded to them including the right to a free appropriate public education; the right to nondiscriminatory testing; the right to written notification prior to changes in the

identification, evaluation, or educational placement of the student; parental consent rights; the right to request an independent evaluation; the right to information regarding each evaluation procedure; the right of access to educational records and to participate in a meeting to develop an IEP; the right to initiate an impartial due process hearing; civil actions including time guidelines; the right to have a student remain in his present placement during the pendency of administrative or judicial proceedings; the right to obtain information regarding free or low-cost legal services; the opportunity to present and resolve complaints through the state complaint procedures; and the availability of mediation.

When a student with a disability reaches the age of majority under state law (except for a student with a disability who has been determined to be incompetent under state law):

- a. All other rights accorded to parents transfer to the student upon the student reaching the age of 18.
- b. The agency shall notify the student and parents of the transfer of rights, and document that such notice was given. The LEA shall include a statement on the IEP (beginning at least one year before the student reaches the age of majority) that the student and parent(s) have been informed of the rights that will transfer to the student at the age of 18.
- c. All rights afforded to parents transfer to students who are incarcerated in a federal, state, or local juvenile or adult correctional institution.

In addition to this general information regarding procedural safeguards, the consent form specifies the action proposed or refused by a DHEP, explains the reasons for the program's proposal or refusal to take action, and a description of other options considered as well as the reasons for rejecting them. Further, it describes the nature, purpose, and use of any evaluation procedure, assessment, record, or report used as a basis in decision making and any other factors that are relevant to the DHEP's proposal or refusal. The notice shall include a statement that the parent(s) of a child with a disability have protection under procedural safeguards and information where a copy may be obtained; and sources for the parent(s) to contact in order to obtain assistance in understanding the provisions. The notice shall be written in a language understandable to the general public and provided in the native language of the parent(s) or other mode of communication used by the parent(s), unless it is clearly not feasible to do so. Further, DHEPs will maintain a list of persons who are available to serve as translators in cases where the parents' native language is not English or other mode of communication is not written language. In such cases, documentation is maintained, reflecting the DHEPs' efforts to ensure that the parents are provided with prior notice and parental consent that are understandable.

3. Filing a Complaint

The Virginia Department of Education maintains and operates a complaint system that provides for the investigation and issuance of findings regarding violations of the rights of parents or students with disabilities. The Superintendent of Public Instruction or designee is responsible for the operation of the complaint system.

4. Commencement of a Due Process Hearing

In the event a DHEP proposes or refuses to initiate or change the identification, evaluation, or educational placement and services of the student or the provision of a free appropriate public education, the parent or a public educational agency may initiate a hearing when a disagreement occurs. A parent or DHEP shall request a hearing within two years of the date the parent or DHEP knew or should have known of the alleged action that forms the basis of the disagreement. **A request for a hearing shall be made in writing to the appropriate Virginia Department of Education official responsible for state operated programs.**

DHEPs maintain information about low-cost legal services through the legal aid society to share with parents as well as other relevant services available in the area. Additionally, the DHEPs may initiate due process to appeal parental refusals for evaluation or the provision of special education and related services. For purposes of this provision, the time when a disagreement occurs shall be deemed to mean when such disagreement is discovered or by the exercise of due diligence reasonably should have been discovered.

5. Resolution Session

Prior to the due process hearing, and within 15 days of receipt of the hearing request, the school division must convene an IEP team with specific knowledge of the facts in the hearing request, to discuss and attempt to resolve the complaint. The meeting must include someone from the school division with decision-making authority on behalf of the school division and may not include a school division attorney unless the parent brings an attorney. The parties may agree to waive the meeting or agree to use mediation. If the school division has not resolved the complaint to the satisfaction of the parents within 30 days of receipt of the hearing request, the due process hearing may occur. If there is resolution, the parties execute a written, signed document that is enforceable in any state court of competent jurisdiction or in federal district court. A party can void a written agreement within 3 business days of the agreement's execution.

6. Mediation

The DHEP will use the mediation system as described in Regulations Governing Special Education Programs for Children with Disabilities in Virginia, January 25, 2010. Mediation will be conducted by a single, qualified and impartial mediator appointed by the Virginia Department of Education. Mediation is voluntary and will not be used to deny or delay a parent's right to a due process hearing or any other rights. The process will be completed in a timely manner and in accordance with the Virginia Department of Education's Statewide Special Education Mediation System.

7. Hearing Officers

A hearing officer shall be appointed according to the Hearing Officer System of Rules of Administration promulgated by the Supreme Court of Virginia. A hearing may not be conducted by a person employed by an agency involved with the care or education of the student or by a person having a personal or professional interest which would conflict with his or her objectivity in the hearing. A hearing may not be conducted by a person who represents schools or parents in any matter involving special education or disability rights, or is an employee of any parents rights agency or organization, or disability rights agency

or organization. The DHEPs shall ensure that the Virginia Supreme Court appoints a hearing officer within 5 business days following the request for a non-expedited hearing to facilitate compliance with the 45 calendar day timeline. The DHEPs shall ensure that the Virginia Supreme Court appoints a hearing officer within 3 business days for an expedited hearing to facilitate compliance with the 20 calendar day timeline. Regulations governing the appointment, qualifications, retention, training, selection, removal, and disqualification of hearing officers are also included in the Hearing Officer System of Rules of Administration by the Supreme Court of Virginia.

8. Pre-hearing Responsibilities of the DHEPs

The DHEPs' confirmation of the appointment of a hearing officer shall be done in such a manner as to protect the confidentiality of the parent(s) and the student. Within five business days of the appointment of a hearing officer, the DHEP shall send a copy of the correspondence confirming the appointment of a hearing officer along with a copy of the request for a hearing to the State Education Authority (SEA). All necessary information, including documents and exhibits, shall be forwarded promptly to the hearing officer, together with the official request for a hearing in order to ensure that timelines are maintained. The DHEP shall assist to clarify the issue for the hearing and participate in the pre-hearing conference and upon request provide information to the hearing officer to assist in the administration of a fair and impartial hearing. The DHEP shall provide the parent(s) a copy of their procedural safeguards upon receipt of the parent(s) request for a due process hearing in a school year and inform the parent(s) at that time of the availability of mediation and any free or low-cost legal or other relevant services.

It is the DHEPs' responsibility to arrange for recording equipment to be set up or a stenographer to be present in the hearing room. The DHEPs shall also ensure that the recording equipment, if used, is reliable and working and that the recording is clear and can be transcribed, if necessary. A complete, accurate, written verbatim transcript of the proceedings need not be made at the conclusion of the hearing, unless the hearing or reviewing officer needs it for review prior to rendering a decision. When there is an appeal of the decision, a copy of the recording or transcript shall be supplied to the parties to the hearing, upon request and free of charge. The DHEP shall keep a list of the person(s) who serve as the hearing officers. The list must include a statement of the qualifications of each of those persons.

9. Pre-hearing Responsibilities of the Hearing Officer

The hearing officer shall, within 5 business days of appointment, secure a time, date, and location for the hearing, working with both parties to ensure these arrangements are convenient. Written notification of the time, date, and location of the hearing is to be provided by the hearing officer to both parties and the Virginia Department of Education. Additionally, if the hearing officer ascertains that the parties will have attorneys at the hearing, copies of this correspondence shall be sent to them. The hearing officer shall also ascertain from the parent(s) whether the hearing will be open.

With regard to the recording of the hearing, it is the responsibility of the hearing officer to ensure that a stenographer or recording equipment is present at the hearing and ensure that testimony is clearly recorded, either by the stenographer or recording equipment, to permit an accurate record of the proceedings. If a tape recorder is used, then the hearing officer shall be provided a written list of speakers in order of appearance or at the beginning of the

hearing identify on tape each speaker's title, position, and interest in the proceeding. Thereafter, each speaker, prior to addressing the hearing, shall state his name for the record. Prior to the hearing, the hearing officer shall receive a list of witnesses and documentary evidence no later than 5 business days for a non-expedited hearing or 2 business days for an expedited hearing.

The hearing officer may schedule a pre-hearing conference to be attended by the parties and attorneys, if appropriate. Such a conference may be requested by the hearing officer or the parties to the hearing to clarify or eliminate issues, discuss with the parties the possibility of pursuing mediation and review the options available to settle the case. The hearing officer shall ensure that the DHEP has appointed a surrogate parent, when appropriate, who is acting to protect the educational interests and rights of the student. The hearing officer also has the power to issue subpoenas requiring testimony or the production of books, papers, and physical or other evidence at the hearing. With regard to a subpoena, the hearing officer may procure an order for enforcement in the circuit court of the jurisdiction in which the hearing is to be held. Any person so subpoenaed may petition the circuit court for a decision regarding the validity of such subpoena if the hearing officer does not question or modify the subpoena after objection thereto.

10. Rights of Parties to the Hearing

Any party to a hearing has the right to be accompanied and advised by counsel and/or by individuals with special knowledge or expertise related to students with disabilities. Parties may present evidence and confront, cross-examine, and compel the attendance of witnesses. Further, any evidence that was not disclosed to the other party at least 5 business days for a non-expedited hearing and 2 business days for an expedited hearing prior to the hearing may be prohibited. Any party to a hearing has the right to obtain a free written or electronic verbatim record of the hearing upon request and the written findings of fact and decisions rendered by the hearing officer. Parents must be given the right to have the involved student present; to have the hearing open to the public; to receive a copy of the implementation plan; and to obtain a written or electronic verbatim record of the hearing upon request free of charge. Finally, all parties to the hearing are to receive a copy of the implementation plan.

11. Due Process Hearing Procedures

Procedures for a due process hearing demand that the rights of all parties to the hearing be protected by the hearing officer. Accordingly, it is the hearing officer's responsibility to ensure that an atmosphere conducive to impartiality and fairness is maintained at all times in the hearing. In this regard, it may be prudent to excuse witnesses after they testify, to limit the number of expert witnesses present at the same time, or to sequester witnesses during the hearing. The hearing officer may stop unnecessarily hostile or irrelevant pursuits in questioning.

The hearing officer shall remand the matter in dispute to a conference between the parties only when informal resolution and discussion appear to be desirable and constructive in light of new evidence not admissible in the formal hearing. This action shall be exercised only when the best interests of the student will be served.

In the event it is determined that a surrogate parent is needed, the hearing officer shall ensure that particular DHEP has appointed a surrogate parent who is acting to protect the education interests and rights of the student.

In the course of the proceedings, the hearing officer shall determine whether or not the requirements of notice to the parents were satisfied; whether the student is disabled; whether the student needs special education and related services; and whether the DHEP is supplying a free appropriate public education. These determinations may or may not be central issues in the appeal but, nevertheless, are focal questions in any hearing conducted under these provisions.

The hearing officer shall not require the parties or their representatives to submit extensive briefs as a condition of rendering a decision. The hearing officer shall make no presumptions in the case and shall base his findings of fact and decision(s) solely upon the preponderance of the evidence presented at the hearing and applicable state and federal laws and/or regulations. The hearing officer's findings of fact and decision(s) shall be reported to both parties of the appeal, the DHEP, and the SEA. It is the responsibility of the SEA to provide copies of summaries of the hearing reports to the State Special Education Advisory Committee after deleting any personally identifiable information. A decision by the hearing officer in any hearing, including an expedited hearing, shall be final and binding unless the decision is appealed by a party within one year of the issuance of the decision. The appeal may be filed in either a state circuit court or a federal district court without regard to the amount in controversy.

12. Costs of Due Process Hearing

The costs of an independent education evaluation, hearing officer, court reporters, and transcripts which are incidental to the hearing shall be incurred by the Virginia Department of Education. Costs for any of these services incurred by a party for the specific benefit of that party's case are the responsibility of that party. If the parent(s) are the prevailing party, they have the right to petition either a state circuit court or a federal district court for an award of reasonable attorney's fees as part of the costs. DHEP may initiate court action to recover attorney's fees if the case was frivolous, unreasonable or without foundation or was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cost of litigation.

13. Timelines for Due Process Hearings

For non-expedited due process hearings, the hearing officer shall render a final written decision within 45 calendar days after the request for the hearing is received by the DHEP and mail a copy of the decision to each of the parties. The hearing officer shall grant of an extension only when it serves the best interest of the child and document in writing within 5 business days changes in hearing dates or extensions and send documentation to all parties and the Virginia Department of Education. For expedited due process hearings, the hearing officer may issue an oral decision at the conclusion of the hearing followed by a written decision within 10 school days. The hearing officer shall render a final decision within 20 business days after the receipt of the request for the expedited hearing by the DHEP without exceptions or extensions. The hearing officer shall document in writing without 2 business days any changes in hearing dates and send documentation to all parties and the Virginia Department of Education.

14. Right of Appeal

The hearing officer's decision is final and binding unless the decision is appealed by a party in a state circuit court or federal district court within 180 days of the issuance of the decision. On appeal, the court shall receive the record of the administrative proceedings, shall hear additional evidence at the request of a party, shall base its decision on a preponderance of evidence, and shall grant the relief that the court determines to be appropriate. If the hearing officer's decision is appealed in court, implementation of the hearing officer's order is held in abeyance except in those cases where the hearing officer has agreed with the student's parent(s) that a change in placement is appropriate in accordance with the subsection, Student's Status during Administrative and Judicial Proceedings. The DHEP shall notify the Virginia Department of Education when a decision has been appealed to court by either party and forward the record of the due process proceeding to the appropriate court.

15. Implementation Plan

The DHEP shall develop an implementation plan within 45 calendar days of the final decision or the withdrawal of a hearing or appeal. Such plan shall be based upon the decision of the hearing officer or agreement between the parties. The implementation plan must state how and when the decision or agreement will be put into operation. If the decision or agreement affects the student's educational program, the revised IEP shall be made a part of the plan. Copies of this plan shall be forwarded to the parties, the hearing officer, and the Virginia Department of Education. The plan shall include the name and position of a case manager in the DHEP charged with implementing the decision.

Failure of either of the parties to comply with the implementation plan shall be reported to the Virginia Department of Education for investigation through the state's complaint system.

16. Due Process

The DHEP shall maintain a file, to include communications, as part of the student's scholastic record, containing a copy of the hearing and reviewing officer's findings of fact and decision(s); a copy of the implementation plan; a copy of the electronic or verbatim transcript of the hearing proceedings; and a copy of all documents and exhibits presented at the due process hearing and state level review. All necessary communications shall be forwarded to the State Education Authority.

17. Student's Status During Proceedings

Unless a DHEP and the parent of the student agree otherwise, the student must remain in his current educational placement, unless released by detention, during the pendency of any administrative or judicial proceeding regarding a complaint. Notably, this does not preclude using normal procedures for dealing with students who endanger themselves or others. Should the complaint involve an application for initial admission to a public school, the student, with parental consent, must be placed in the regular program until the completion of all the proceedings. If the decision of a hearing officer agrees with the student's parent(s) that a change of placement is appropriate, that placement shall be treated as an agreement between the local educational agency and the parent(s) for the purposes of maintaining the student's placement during the pendency of any administrative

or judicial appeal proceeding. The student's placement during administrative or judicial proceedings regarding a placement for non-educational reasons by a Comprehensive Services Act team shall be in accordance with 8 VAC 20-80-66 A 8.

K. Surrogate Parent Procedures

All DHEPs follow the procedures on surrogate parents as outlined in the Regulations Governing Special Education Programs for Children with Disabilities, January 25, 2010. The DHEP principal or lead teacher is responsible for recruiting, training, and assigning surrogate parents and for changing an assignment when appropriate.

VI. Students Entering With Existing IEPs

When a student is admitted to a DHEP and has an existing IEP developed by an LEA or any other legal educational entity, it is the responsibility of the Virginia Department of Education and educational personnel assigned to DHEPs to provide comparable services, in consultation with parents, until the DHEP either amends the existing IEP or develops a new one. As a result of the student's detainment in the detention home, the student's existing IEP may require modifications. Procedural steps to ensure the continuity of special education services as specified in the student's existing or revised IEP are as follows:

- A.** Upon initial admission to the detention home, the DHEP administrator will obtain a copy of the student's current IEP. Until receipt of the IEP, the special education services required will be discussed with the appropriate LEA officials and parents.
- B.** Modifications in the student's existing IEP may occur as a result of a multi-disciplinary approach. DHEP education personnel, detention home staff, LEA personnel and parents should be involved in determining modifications in the IEP.

Amendments/modifications, as needed, in a student's existing IEP can be conveyed via phone or in person, as well as, in writing to the parents, LEA special education directors, and other appropriate LEA personnel.

Generally, all detention home IEPs are amended for: (1) change in location; (2) change in duration/amount of services, and /or (3) change in service providers. When making changes to an IEP without having a formal meeting the following steps should be followed:

1. Call parent to discuss IEP amendment options- formal meeting or changes without a meeting. The LEA should also be contacted to discuss the meeting options and proposes.
2. Discuss proposed changes and allow the parent to decide which option is preferred.
3. Record on the IEP invitation the parent's preference. (Complete in full if formal meeting will take place and mail to parent. If parent elects to make changes without holding a formal meeting, note it on the IEP).
4. If changes can be made without a formal meeting, complete the addendum form and again note the parent's consent to make the changes without a formal meeting.

If the parent does not want to amend an IEP over the phone, then the DHEP staff will schedule, at a later date, an IEP meeting to be held at the detention home.

- C. Required related services resulting from the student's IEP will be provided at the detention home. When the student's IEP specifies a related service, the DHEP administrator will make arrangements for the provision of services.
- D. Written notification will be forwarded to the parent(s) concerning the special education program and related services to be provided during the student's detention.
- E. Upon release from the detention home, copies of the IEP/modified IEP, academic progress reports and educational evaluation data will be forwarded to the special education director of the receiving LEA, SOP or other agency.

VII. Students Who Require A Regular Program of Studies (Elementary or Secondary)

Students admitted to DHEP education programs who were enrolled in general education programs in elementary, middle or secondary schools should be afforded similar or modified education opportunities while in detention. When initiating instructional objectives for these students, modifications in the education program may be required because of the student's detention. Procedural steps to ensure the continuity of a program of studies and services for students in regular academic instructional programs are as follows:

- A. Upon initial admission to the detention home, the DHEP administrator or designee will contact the student's LEA administrator or guidance counselor, where appropriate, to request information on the student's curriculum program. Information regarding textbooks, special projects, grade level placements, special tests, exams, etc., should be obtained and reviewed.
- B. Modifications in the student's regular course of study may occur as a result of a multi-disciplinary approach. Modifications in the student's curriculum will be conveyed to the student's parents, LEA administrator and teacher.
- C. Instructional objectives will be developed for each student in a regular program of studies based on the Virginia SOLs. Students will participate in the Commonwealth's Statewide Assessment Program if they are enrolled in a class with an End-Of-Course or grade-level SOL test and are enrolled at the DHEP during the testing window and have not yet taken that particular assessment during the administration period.
- D. Parents will be informed of the curriculum and program provided during the student's detention.
- E. Upon release from the detention home, an educational transfer summary will be forwarded to the student's home school and other appropriate LEA personnel. This document shall include the student's STI (State Testing Identification) number.

VIII. General Student Related Policies

A. Educational Placement

Since placement in detention homes is for court/correctional purposes, educational plans may require modification due to the security and safety needs of the individual student.

B. High School Credit

Credit may be granted toward promotion and graduation from a secondary school for subjects taught by a teacher endorsed in a specific area of special education or related subject for which he/she is employed. According to the Regulations Establishing Standards for Accrediting Public Schools in Virginia, 2009, the standard unit of credit is as follows:

The standard unit of credit for graduation shall be based on a minimum of 140 clock hours of instruction and successful completion of the requirements of the course.

The term "instruction" shall be interpreted to include independent study when such study is limited to those students who have demonstrated the maturity and ability requisite for this type of learning experience, and when the supervising teacher provides for appropriate direction, a means of accountability, and student evaluation. Supervised study hall is not interpreted as independent study.

Credit may be earned in increments of less than whole units and may be recorded as such. Under no circumstances shall a unit of credit be awarded for completion of a course that is the same, or essentially the same, as a course for which the student already has received credit.

Credit may be awarded to a student upon successful completion of an individually designed course consistent with the IEP in which 140 clock hours of instruction have been provided. An alternative method for granting credit is available at the discretion of school division officials and may be better suited to the needs of the student. The following conditions must be met under this alternative:

1. Insure that the scope of each course for which credit is awarded under this provision is comparable to the scope of a corresponding course meeting the standard of 140 clock hours of instruction;
2. Develop a set of performance objectives for a well-defined course of study which will clearly indicate that, upon completion, the student has met the aims and objectives of the course as evidenced through the mastery of certain predetermined objectives and requirements associated with the course;
3. Develop procedures for evaluating the progress of students in this program. Such procedures could include criterion-referenced tests of standardized tests;
4. Develop a written policy covering this program and have approval from the student's school division.
5. **The LEA superintendent, not the DHEP, is responsible for granting credit.**

C. Attendance Credit

A student enrolled in a DHEP receives attendance credit for the time enrolled in the education program. The student is withdrawn from his/her school division's roll upon admission to the DHEP. For attendance of less than three (3) days, the student is not withdrawn from the LEA's register as students may not be dually enrolled. **No student may be denied transfer of attendance credit from the DHEP.**

D. State Testing Program

Students enrolled in DHEPs will participate in the State Assessment Program. The Virginia Department of Education makes scores available to the DHEP. The DHEP sends student test scores to the next educational placement via the Educational Transfer Summary upon discharge from the DHEP. If a student has already been discharged then the test scores will be forwarded to the responsible LEA.

E. GED/ISAEP

Some students who enroll in DHEPs have been involved in pre-GED® or GED® prep programs at their previous placement or school and they already have an ISAEP. Efforts shall be made to continue these students in progressing towards these goals. Each DHEP shall have some GED® materials on site to facilitate this. The GED® test assesses students in the areas of reading, writing, math, science and social studies. Therefore, it is important for these students to have access to instruction addressing each of these curricular areas in preparation for the test.

Sometimes it may be appropriate to consider placing a post-dispositional or long-term (ex. circuit court) student in a GED® program and to develop an ISAEP (see ISAEP form). Any decision regarding placement of a student on an ISAEP or in a GED® prep program shall require collaboration with the LEA in order to assure that a similar placement can be made following release. Please note that Virginia has very specific guidelines and criteria regarding an ISAEP (see ISAEP Program Guidelines, February 2003).

In order to be considered for an ISAEP, the student shall score 7.5 grade equivalent or higher on a recognized standardized measure of reading achievement, commonly the TABE. Additionally, the student must score 410 or higher on each of the subtests of the Official GED® Practice Test. Regarding GED® testing: Supts. Memo No. 68, dated March 23, 2007, clarifies GED® testing eligibility. Refer to this document for further details.

(GED is a registered trademark of the American Council on Education and may not be used or reproduced without the express written permission of the American Council on Education)

F. Communication

DHEP staff will attempt to communicate with and involve the LEA of students enrolled in the DHEP program on a regular basis. This coordinated effort is designed to assure service continuity in the transition of the student into the education program of the DHEP and the subsequent utilization of other education programs, receipt of services from other agencies, or employment in transitional programs or upon discharge. These contacts include the following:

1. notice to the LEA (superintendent and home school) in writing or by telephone of the student's enrollment;

2. request to the LEA for student scholastic records;
3. written invitation to the LEA, parents and student, when appropriate, to school-based teams and Eligibility meetings and IEP Conferences (which might address transition planning and termination of services);
4. notice to the LEA in writing or by telephone when the DHEP is apprised (the DHEP does not control admissions or discharges) of the discharge;
5. mailings of educational related information and date with suggestions for continued educational services;
6. report cards issued to the student and parents for those students who are enrolled at the conclusion of the DHEP's reporting period and have been enrolled for at least 4 weeks;
7. IEP Progress Reports issued to the student and parents for those students who are enrolled at the conclusion of the DHEP's reporting period and have been enrolled for at least 4 weeks;
8. follow-up contact with the receiving school upon discharge;
9. completion of a preliminary Re-enrollment Plan for students detained 30 days or more, as outlined in state regulations; [The regulations can be found at: http://www.doe.virginia.gov/support/student_family/re-enrollment/procedures_released_custody.pdf and should be accessed for further information. All DHEPs have the responsibility to adhere to reenrollment regulations. A quick reference guide with timelines can be accessed at: http://www.doe.virginia.gov/support/student_family/re-enrollment/commitment_detention_re-enroll_local.pdf] and
10. completion of a transfer summary compiled as of the last day of the instructional year for all students enrolled in a DHEP. These transfer summaries shall be sent to the home school within 2 school days. Additionally, students enrolled 30 or more calendar days shall have copies of these transfer summaries forwarded to the LEA's Re-enrollment Coordinator. This shall be done in order to maintain compliance with Regulations Governing the Re-enrollment of Students Committed to the Department of Juvenile Justice.
http://www.doe.virginia.gov/support/student_family/re-enrollment/procedures_released_custody.pdf

G. Detention to Detention Transfers

Sometimes it is necessary for students to transfer between DHEPs. When this occurs, the following procedure shall be in effect to obtain student records:

1. The DHEP receiving the student from another DHEP shall request records from the "DHEP of Origin." This shall be done using the same enrollment notification form that is ordinarily sent to the LEA.
2. The "DHEP of Origin" shall forward copies of all records received to the receiving DHEP. If the "DHEP of Origin" has not yet received records from the LEA, it shall be their responsibility to continue to make efforts to procure these records and forward

them to the receiving DHEP even though the child is no longer enrolled at that particular facility.

3. The receiving DHEP shall also follow usual procedures by notifying the LEA superintendent and shall keep in best practice by notifying the child's home school. This notification should indicate that records are being requested from the "DHEP of Origin" and that records should be sent to that facility if not already done.
4. When the student either returns to the "DHEP of Origin" or is released, a transfer summary shall be sent to the home school and the "DHEP of Origin" as well as the parent/guardian.

H. Liaison

School officials from the student's home LEA and parents or legal guardians are invited to participate in the development of the IEP. Plans for transition are developed at this time, if appropriate. Liaison contacts are documented in the student's record.

The education programs in detention homes attempt to communicate with and involve parents/guardian/surrogate parents of students enrolled in the educational program on a regular basis. These contacts include the following:

1. regular written informative correspondence;
2. written invitations to scheduled, planned meetings;
3. telephone contacts;
4. notice of parent training activities/events; and
5. notice of student activities and events.

I. Release

The decision to release a student from a detention home is determined by the courts.

When possible, student progress will be reviewed by the DHEP administrator prior to discharge. Copies of pertinent educational records, including progress reports, IEPs, eligibility determination, and academic records will be sent to the LEA or other receiving education agency(s). A reenrollment plan will also be completed, if appropriate. If a student is released before assessment procedures are complete or during the eligibility process, all educational records will be forwarded and an appropriate referral will be made to the receiving LEA, SOP or other agency.

IX. Record Keeping

A. Annual Notice to Parents

The DHEP management procedure for scholastic records shall require notification, at least annually, to the parents of students in attendance (including those parents identified as having primary or home language other than English) and eligible students in attendance by such means as are reasonably likely to inform them of their rights as follows:

1. the types and location of scholastic records and information maintained therein;
2. the title and address of the official responsible for the maintenance of scholastic records, the parties to whom data may be disclosed, and the purpose for disclosure;
3. the policies for reviewing and expunging scholastic records;
4. the policy and procedures for disclosure of data from scholastic records;
5. the right of parents and eligible students to challenge the content of scholastic records and to file with the Family Educational Rights and Privacy Act Office a complaint concerning an alleged failure by the DHEP to comply with 20 U.S.C. 1232g;
6. the fee, if any, to the parent or eligible student for reproducing copies of scholastic records;
7. the data designated as directory information (directory information is not maintained by DHEPs); and
8. the right of parents and eligible students to obtain, upon request, a copy of the DHEP written policy and procedure on the management of scholastic records and the location of the same.

B. Student

1. Student enrollment

Education programs are expected to maintain student enrollment information.

2. Student Files

Student files are to be maintained on each student in the education program. All files are to be maintained in a confidential manner in accordance with Virginia Procedural Safeguards Notice, August, 2009.

3. Access

- a. The DHEPs permit parents or eligible students to inspect and review educational records which are collected, maintained, or used by the programs. The DHEPs comply with such a request without unnecessary delay. In responding, the DHEPs arrange a meeting with the parent or eligible student at a mutually convenient time. The teacher/educational consultant and administrator are to be available to answer any questions or explain information included.
- b. The DHEPs comply with a request to inspect and review scholastic records before any meeting regarding an IEP or hearing relating to the identification, evaluation, or educational placement of the student or provision of a free appropriate public education.
- c. The right to inspect and review scholastic records includes

- i) the right to a response from a DHEP to reasonable requests for explanations and interpretations of the scholastic records;
 - ii) the right to request that a DHEP provide copies of the scholastic records containing the information if failure to provide the copies would effectively prevent the parent from exercising the right to inspect and review the scholastic records; and
 - iii) the right to have a representative of the parent inspect and review the scholastic records.
- d. The DHEPs may presume that both parents have the authority to inspect and review records relating to the student unless a DHEP has been advised that both parents do not have the authority under applicable state law governing such matters as guardianship, separation, and divorce.
 - e. DHEPs keep a record of parties obtaining access to scholastic records collected, maintained, or used.
 - f. DHEPs maintain for public inspection a current listing of names and positions of employees who have access to personally identifiable data in scholastic records.
 - g. If any scholastic records include information on more than one student, the parents of those students shall have the right to inspect and review only the information relating to their child or to be informed of that specific information.
 - h. When requested, DHEPs provide parents or eligible students with a list of the types and locations of scholastic records collected, maintained, or used by the programs.

4. Disclosure

- a. When a request for disclosure of scholastic record data is made, such a request shall be granted immediately, if practical, but in no case more than 5 business days after the date of the request. If a DHEP determines that it is practically impossible to provide the requested records or to determine whether they are available within the 5 business days, the DHEP shall inform the requesting party and shall have an additional 7 business days to provide the requested records.
- b. DHEPs may disclose, upon student transfer, information from scholastic records to another SOP or LEA without parental consent unless prohibited by other applicable law.
- c. DHEPs maintain with the students' files a record data disclosure form showing:
 - i) the parties who have requested and/or obtained scholastic record data disclosure, with the exception of adult clerical and professional personnel within the DHEPs; the parent or eligible student; and the parties receiving directory information;
 - ii) the agency or institution represented, if appropriate;

- iii) the date of the disclosure;
 - iv) the specific legitimate interest of such disclosure and the purpose for which the data will be used; and
 - v) the signature of the administrator.
- d. The record data disclosure form shall be available to the parent or eligible student, to school officials responsible for record maintenance, and to parties authorized.

5. Fees

The DHEPs management procedure for scholastic records specifies a schedule of fees for disclosure of scholastic records as follows:

- a. The DHEPs may charge a reasonable fee, not to exceed the cost of reproduction, for copies of the scholastic record(s).
- b. Such fees shall not effectively prevent the parents or their designee from exercising their right to inspect and review said records. However, no fee may be charged for a copy of the IEP.
- c. The DHEP's may not charge a fee for search and retrieval.

6. Amendment Procedure

- a. The parent or eligible student who believes that information in the scholastic record of the student is inaccurate or misleading or violates the privacy or other rights of the student may request that a DHEP amend it, regardless of when the information was entered in the record.
- b. A DHEP decides whether to amend the scholastic record in accordance with the request within a reasonable period of time, no more than 15 business days after the receipt of the request. If the DHEP agrees to amend, then the amendment shall be made in writing, inserted in the student's scholastic record, and maintained in accordance with maintenance and disposition.
- c. A DHEP may utilize informal attempts to reconcile differences; however, the parent or eligible student may exercise the right to a hearing without benefit of the decision from any informal proceeding.
- d. If a DHEP decides to refuse to amend the scholastic record of the student in accordance with the request, it shall, within 15 business days, inform the parent or eligible student of the refusal and advise of the right to a hearing.
- e. A DHEP, on written request, provides an opportunity for a hearing to enable the parent or eligible student to challenge information in the scholastic record to ensure that it is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student.

- f. If, as a result of the hearing, a DHEP decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall amend the scholastic record of the student accordingly and so inform the parent or eligible student in writing.
- g. If, as a result of the hearing, a DHEP decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it shall inform the parent of an eligible student of the right to place in the scholastic record a statement commenting on the information or setting forth any reasons for disagreeing with the decision of the DHEP.
- h. Any such explanation placed in the scholastic record of the student shall
 - i) be maintained by a DHEP as part of the scholastic record of the student as long as the record or a contested portion thereof is maintained, and
 - ii) be disclosed by a DHEP when the scholastic record of the student or the contested portion thereof is disclosed to any party.
- i. Any hearing related to the management of a student's scholastic record shall be conducted according to the procedures as follows:
 - i) The hearing shall be held within 45 calendar days after a DHEP has received the written request. The parent or the eligible student shall be given written notice by the DHEP of the date, place, and time of the hearing.
 - ii) The hearing may be conducted by any party, including an official of a DHEP who does not have a direct interest in the outcome of the hearing.
 - iii) The parent or the eligible student shall be afforded a full and fair opportunity to present evidence relevant to the issues and to question the person(s) who have entered the information;
 - iv) The parent or eligible student may be assisted or represented by individuals of his choice, including an attorney, at his expense;
 - v) A DHEP shall make its decision in writing within a reasonable period of time after the conclusion of the hearing;
 - vi) The decision of a DHEP shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision; and
 - vii) The evidence shall become a permanent part of the student's scholastic record.

7. Consent

- a. Parental consent must be obtained before personally identifiable information is:
 - i) disclosed to anyone other than officials of LEA's and other SOP's collecting or using the information under this part, subject to paragraph (b) below or
 - ii) used for any purpose other than meeting a requirement under this part.

- b. DHEPs may release information from educational records to LEAs and other SOPs without parental consent, unless prohibited by other applicable law.

8. Safeguards

- a. DHEPs ensure the protection of confidentiality of personally identifiable information of the scholastic records during collection, storage, disclosure, and destruction.
- b. Given the physical deployment of DHEP teachers throughout the facilities, one confidential student file is maintained on each child.
- c. DHEPs ensure that all persons collecting or using personally identifiable information in scholastic records receive training or instruction regarding the maintenance of students' scholastic records.
- d. DHEPs maintain student files for those disabled children who have not yet become students, i.e., preschool or unserved.
- e. DHEPs require that the administrator be responsible for the collection, maintenance, security, use, disclosure, and content of the scholastic record.

9. Destruction

- a. Personally identifiable information on a disabled student may be retained permanently unless the parents or eligible student request that it be destroyed. The information must be destroyed at the request of the parents or eligible student; however, a permanent record of a student's name, address, telephone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.
- b. Destruction of scholastic records is the best protection against improper and unauthorized disclosure; however, the scholastic records may be needed for other purposes. When informing parents or eligible students about their rights, DHEPs may remind them that the scholastic records may be needed by the students or the parents for social security benefits or other purposes. If the parents or eligible students request that the information be destroyed, then the DHEPs retain only that information required under state law and regulations.

10. Student records:

To maintain compliance with Records Retention and Disposition Schedule, General Schedule No. 21 from the Library of Virginia, series number 009538, all student records shall be maintained at the DHEP for 5 years and then may be destroyed by shredding or pulping. This is due to the fact that DHEPs do not maintain cumulative records on students.

C. Administrative

- a. Monthly attendance reports and any other information requested by the Department of Education shall be completed by DHEPs and submitted to the SOP Director or his/her designee.
- b. **Publications and Presentations:** Education staff that submit to present at conferences or who desire to publish an article concerning a state operated program must submit the information to their administrative leader, at least 4 weeks prior to the presentation or publication, for review. If there is no principal on site, the article or presentation must be submitted to the State Operated Programs office at the Virginia Department of Education. The education administrator should review all documents with the detention superintendent. In all cases, no articles or presentations should contain the names or any other identifying information of students as confidentiality is imperative. In addition, all articles should reflect a positive light on the programs, leadership, State Operated Program Office and the Virginia Department of Education.
- c. It is expected that all leadership in detention education programs will be available during the months of August and June to attend state meetings and trainings and be on site for the opening/closing of the enrichment program and the school year.
- d. All students who enter a detention facility will be enrolled on their first day of attendance through the State Operated Programs student information system.