# Virginia Commission on Youth
# 2015 Legislative Studies and Initiatives

## TEMPORARY PLACEMENTS OF CHILDREN
## PUBLIC COMMENTS IN RED

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| **Study Mandate**<br>During the 2015 General Assembly Session, Delegate Kathy J. Byron introduced House Bill 2034. It provides that a parent or legal custodian of a minor may delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for a period not exceeding one year. The bill also creates a licensing exemption for private, nonprofit organizations that do not accept public funds and that assists parents with the process of delegating parental and legal custody of their children. The intent of the legislation is to provide parents with support and respite during difficult times while having children stay in a safe environment with the ultimate goal of reunification.<br><br>Members of the House Courts of Justice Committee reviewed the bill and determined that further study would be appropriate. The Committee passed the bill by indefinitely and requested that the Commission on Youth study the provisions set forth in House Bill 2034 and report its findings and recommendations.<br><br>**Findings**<br><u>Prevention Services</u>: Prevention Services are meant to strengthen families and prevent child maltreatment. The Virginia Department of Social Services uses a practice model, which promotes safe, stable, | 1. Request a budget amendment in the 2016 budget (caboose) and new biennial budget for the Department of Social Services to partner with Patrick Henry Family Services to implement a pilot program in the area encompassing Planning District 11 (Amherst, Appomattox, Bedford, Campbell Counties and the City of Lynchburg) for the temporary placements of children for children and families in crisis. This pilot program would allow a parent or legal custodian of a minor, with the assistance of Patrick Henry Family Services, to delegate to another person by a properly executed power of attorney any powers regarding care, custody, or property of the minor for temporary placement for a period that is not greater than 90 days. This program would allow for an option of a one-time 90 day extension. (Additional language based on public comment): *<u>Prior to the expiration of the 180 day period, if the child is unable to return to his home, then Patrick Henry Family Services shall contact the local department of social services and request an assessment of the child and an evaluation of services needed and to determine if a petition to assess the care and custody of the child should be filed in the local juvenile and domestic relations court.</u>* DSS shall ensure that this pilot program meets the following specific programmatic and safety requirements outlined in 22 VAC 40-131 and 22 VAC 40-191.<br>• The pilot program organization shall meet the background check requirements described in 22 VAC 40-191. |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| and healthy families. In Virginia, prevention services have transformed and grown over the past several years starting with the Children's Services System Transformation implemented in 2007. While the implementation of recent improvements have resulted in a decrease in the number of children in Virginia's foster care system and an increase in the use of kinship care, lack of funding and staffing is still a concern. According to the latest CSA Critical Services Gap presentation for fiscal year 2013, the top five of statewide service gaps includes parenting/family skills training and regular foster care/family care. As well, the top barriers highlighted to community service availability remain a need for a greater buy-in and support from the line staff and a need for greater collaboration among community stakeholders.<br><br>Use of family driven services continues to be promoted in Virginia as a best practice model. Since early prevention services are mostly voluntary they require that the family unit act as the primary decision maker, making it even more important that the services provided are family focused. As well as embracing family driven services, the Department of Social Services stresses an entrepreneurial approach to program development and service delivery. This means thinking "out of the box" to provide services to assist families whose children are safe, but the family unit is struggling as a whole.<br><br><u>Diversion</u>:<br>In addition to its prevention efforts, over the past decade Virginia has paved the way to increase diversion efforts. In 2010, Delegate Peace introduced a § 1 bill (HB 718) , which became law, requesting that the Governor and the Department of Social Services work together to reduce the number of children in foster care by 25 percent within 10 years. Five years into this effort, there has been a 17.86% decrease as of July 1, 2015. Virginia also supported the effort of improving outcomes to its current diversion program by partnering with the Annie E. Casey Foundation in 2011 for a qualitative study on kinship care. Specific recommendations included: develop and adopt clear state-level policy guidelines and provide caseworkers with training and tools for clients in order to inform and advise families on available benefits and options. Most recently in 2014, Senator Howell introduced a § 1 bill (SB 284), which became law, directing that the Department of | • The pilot program organization shall provide pre-service and ongoing training for temporary placement providers and staff (22 VAC 40-131-210 and 22 VAC 40-131-150).<br>• The pilot program organization shall develop and implement written policies and procedures for governing active and closed cases, admissions, monitoring the administration of medications, prohibiting corporal punishment, ensuring that children are not subjected to abuse or neglect, investigating allegations of misconduct toward children, implementing the child's back-up emergency care plan, assigning designated casework staff, management of all records, discharge policies, and the use of seclusion and restraint (22 VAC 40-131-90). The Department of Social Services shall evaluate the pilot program and determine if this model of prevention is effective. A report of the evaluation findings and recommendations shall be submitted to the Governor and Chairs of the House Appropriations and Senate Finance Committees as well as the Commission on Youth by December 1, 2017.<br><br>**<u>PUBLIC COMMENTS</u>**<br><br>**In Support:**<br>**Virginia Association of Community Services Boards** supports recommendation one. "Currently, informal placements occur when the parent is hospitalized, incarcerated, or places their child with family members due to high-acuity concerns. When this occurs, the individual caring for the child has no legal standing and cannot consent for treatment. The formal and legally binding process proposed in the pilot would be a solution. It would also allow guardian ad litems to offer a non-punitive option to parents involved in the criminal justice system and/or those seeking treatment for substance abuse issues."<br><br>**Franklin County Community Policy Management Team** supports recommendation one and states that "it is hopeful that a pilot program would be helpful at determining the program efficacy and assist with ensuring that any future programs are implemented efficiently and effectively."<br><br>**Foster Hope Foundation, Inc. in** Lynchburg supports recommendation |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| Social Services review current policies governing kinship care placements. The legislation also directed DSS to develop recommendations for regulations.<br><br><u>Delegation of Parental Authority</u>:<br>Approximately half of states have some form of a temporary delegation of authority by power of attorney law. Nine states limit this authority to one year and 13 states limit this authority to six months. The remaining states laws limit the temporary delegation of authority solely to grandparents or they have no time frame for expiration of the power of attorney. The most common model followed is based on the Uniform Guardianship and Protective Proceedings Act of 1982 (UGPPA), which states, "A parent or a guardian of a minor or incapacitated person, by a power of attorney, may delegate to another person, for a period not exceeding six months, any power regarding care, custody, or property of the minor or ward, except the power to consent to marriage or adoption." States that utilize this process make their agreement on a power of attorney form instead of going to court. In addition, the power of attorney device does not act to confer custody on the caregiver, but rather allow the designated caretaker to enroll the child in school or obtain medical care. In Virginia, kinship caregivers are permitted to use an affidavit and power of attorney to enroll a child in school. | one. The Foundation further explains that "Having the opportunity to see life skill played out in front of them would be very beneficial. The family that opens their doors to one of these young mothers can teach them so much just by living it out in front of them versus trying to coach without actively being with them on a regular basis."<br><br>Michael F. Daly, M.Ed, Director, Youth, Adult and Community Services of Campbell County expresses his support. "I believe this will serve as an excellent resource for families in crisis who may need temporary placements for their children. This innovative program provides an important link to the faith community in providing a much needed resource."<br><br>Tess Stockslager, Ph.D., Assistant Professor and Director, Center for Writing and Languages, at Liberty University expresses her support. "SFFC works with both children and parents, separately, with the goal of reuniting the family. In a society that can be terribly cruel toward anyone who makes a mistake, this kind of grace-filled effort is greatly needed." She also notes that SFFC allows people from all walks of life to get involved and, "because of the wide variety of volunteer opportunities available (hosting children, yes, but also counseling or befriending parents, donating supplies, raising awareness, supporting host families, and more), people who might not be able to get involved with, say, the foster care system can find a niche within SFFC: single adults (like myself), children and teenagers, older adults, small groups, businesses owners, etc."<br><br>Adam B. Spencer supports Safe Families and states: As a 41 year old professional working every day to help make the lives of children better, and also a full-time single parent of a 6 year old and 10 year old, I am personally and professionally aware of the need for Safe Families for Children. I shudder to think what would happen to my children if I suddenly became ill and wasn't able to care for my children. With no family within 300 miles from me, what would I do? As most loving parents in this type of situation we would never give up our children to a "system." The most natural and appropriate response would be to connect with a certified, caring couple registered as a host family within Safe Families for Children. This relational approach to meeting this growing need is exactly |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | what the greater Lynchburg community and state of Virginia at large needs.<br><br>A.L. Billingsly supports Safe Families because the program can respond quickly with a safe haven for children of families in need before a crisis arises.<br><br>Alyssa Harold, supports and writes: “The need for a program such as Safe Families is significant. In the state of Virginia there is a gap that Safe Families can fill by providing short term assistance to families who do not qualify for other programs because of finances, intent to return the child to home, inability/no need of the child to go into DSS custody, no extended family able or willing to help etc. These situations do exist and they unfortunately exist quite frequently. In my line of work, we see families in need of consistent support who often do not qualify for existing services (i.e. If short term help is needed the family will not want to relinquish custody to DSS, or a transitioning teen is not eligible for state funded Independent Living Programs due to not being the state’s custody). Safe Families appears as a wonderful opportunity to aide struggling families when they do not qualify for the existing services, and also to keep the child in a least restrictive setting. An additional example is children and families that are receiving all current services available (Crisis Intervention/Stabilization, Intensive In Home, Case Management, and Psychiatric Services) yet continue to struggle in the home but do not need the intensity of a residential or inpatient program. As a state, much has been done to aide families in crisis, however, the existing services do not fit every situation perfectly.”<br><br>Sarah Jane Henderson, retired Lynchburg Department of Social Services foster care social worker supports recommendation one and cites the fact that Safe Families intervenes prior to the trauma of the foster care system, keeps the connection between the child and biological parent intact, host families taking in children receive support, and this process is overseen by an organization that does screening, counseling, training and provides assistance.<br><br>Jeffrey R. Fulgham, CFRE, supports recommendation one and came to know Safe Families via his church. “Virginia is a national leader in so |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | many areas … let's put children and families at the top of that list!"<br><br>Crystal Cowart, Thomas Road Baptist Church Adoptive and Foster Care Ministry Leader, supports recommendation one. She states that her church is very excited to be a part of Safe Families.<br><br>David Marshall, CFA, from Lynchburg, VA supports recommendation one. "The pilot program under consideration is a reasonable first step to opening up the doors to many families in crisis and children in need of a helping hand. This will allow everyone to take this step in a small way, evaluate its success and make any modifications to improve the outcomes." Mr. Marshall also states that he has served on the Board of Trustees of Patrick Henry Boys & Girls Plantation for over 15 years, and he believes that the organization is well run and ready to tackle care for children in innovative ways.<br><br>Ruth Erquiaga supports recommendation one.<br><br>Melissa Curley supports recommendation one.<br><br>**Patrick Henry Family Services / Patrick Henry Boys & Girls Homes a Ministry of Patrick Henry Family Services**:<br>- Crystal Boyd-Morton - Case Worker<br>She noted that "residential care programs remain a rewarding avenue to meet the needs of behaviorally challenged children, but it is not necessarily suitable for children who are not demonstrating significant behavior problems that require structured modification.<br>- Ruby Caskey - Family Coach Supervisor, Safe Families For Children<br>Receives weekly calls for the kind of needs that Safe Families addresses. Ms. Caskey also states that some families live in fear of losing their children if they reach out to someone for help in a time of need.<br>- Robert Day - CEO<br>He stressed that, "behavior and needs that do not raise to the level of State intervention, or involvement, often go unnoticed and unmet. Healthy communities should have multiple natural helping venues and resources to assist those children and families."<br>- Nick & Bambi Durham - "Stephens Cottage" |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | Supports Safe Families because the strain on our economy and government is only getting worse and they believe that a lot of things can be improved in our society if we focused on the family.<br>- Stephen Edwards - Chief Operating Officer<br>Supports Safe Families because "it offers a chance to a child who would otherwise get caught up in, and perhaps lost, in the system."<br>- Patty Hammock - Child & Family Services Coordinator<br>She gave examples of situations that could benefit from a Safe Families type program, including eviction from the home, overcome by financial obligations and caregiver needs to take a second job, illness in the family, and family in need of respite.<br>- Mary Lynn Hawkins - Administrative Assistant<br>Asks the Commission to put themselves in the shoes of a child with little love or support and support a program that can offer help to this child.<br>- John Isaman - Program Director Hat Creek Camps and Conferences<br>"I believe that SFFC is a preventive program that would instill the knowledge and support for families in need to become a healthy unit before crisis occurs and before state tax dollars would need to be spent to intervene and restore the family."<br>- Janie Mantooth LCSW<br>Expresses her belief that Safe Families is "a great opportunity for the public and private sectors to work jointly to help those who do need it."<br>- Sherri L. Meeks, MBA, BSN, RN - Director of Residential Care<br>"We believe that the best place for any child is with their family and often discover that this goal of family reunification is difficult to achieve due to limitations of services that would support the help the family needs to realize this goal in the shortest time possible and the most efficient way possible." Ms. Meeks believes that Safe Families would work to address this concern.<br>- "Plymale Cottage"<br>- "Rustburg Cottage"<br><br>Additionally, the following members of the Patrick Henry community all expressed enthusiastic support for Safe Families.<br>- Mercy J. Clements - Administrative Assistant<br>- Amy Duffer - Staff Accountant<br>- Chad and Niki Crawford - Primary House Parents for Bedford Cottage<br>- Jorge and Gloria Cruz - House Parents, Howe Home |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | - Wanda Goodwin LPN - Health Care Coordinator<br>- Donna Guthrie - Administrative Assistant<br>- George Nail - Community Development Coordinator<br>- Brett Pettinger - Step Forward Coordinator<br>- Jennifer Wall - Director of Communications and Publications<br><br>**In Opposition:**<br>**Voices for Virginia's Children** opposes recommendation one. Voices "remain concerned by policies that seek to enable what still amounts to child-placing by agencies that will not be asked to meet relevant licensing requirements, which are established for the protection of all parties — local departments of social services, private placing agencies, families, & most especially children." Their letter stressed the fact that child- placing agencies should be licensed to facilitate structured diversion of children from foster care to qualified, appropriate placements. Their letter also stated that "as this proposal is structured as a "pilot," we must conclude that its purpose is to incubate an idea that could be applied (and potentially misapplied) throughout Virginia."<br><br>Their letter also reflected on some of the recent tragedies in the child-care area and stated that licensing can act as a tool to help families monitor the safety and quality of organizations that care for our children.<br><br>Voices urges COY "to explore other policy options for strengthening "diversion" programs that help families improve their circumstances and allow children to return home and avoid foster care without turning to licensing exemptions."<br><br>**Virginia Poverty Law Center** opposes recommendation one. They have "deep concerns that the draft recommendation, by allowing parents to transfer physical custody to an unrelated third party, through an unlicensed provider, with no judicial oversight, can have grave unintentional legal consequences."<br><br>The VPLC explains that pursuant to the Code of Virginia parents can already entrust their children to the local board or a licensed child placing agency, and anything longer than 90 days must be approved by the court. According to the VPLC, all of the safeguards currently provided by |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | voluntary entrustment law to parents in need of this temporary care for their children would be eliminated if recommendation one was implemented. The letter also states a concern that since the draft budget language does not contain a requirement that a court order transferring custody be obtained at the close of the 180 day period, it opens the door for longer term, unregulated placements that can leave children without true permanency.<br><br>The VPLC states that permitting unregulated placements can also place children at risk there is no completely neutral party determining whether a particular placement is in a child's best interest. Additionally, the VPLC adds that the current law requiring that temporary entrustments be approved by a court after 90 days protects parents from unknowingly relinquishing their rights for an indeterminate period of time.<br><br>The VPLC add that while the draft budget language does require that the pilot program comply with certain regulations dealing with safety and training, they lack any mechanism of enforcement. The ability of the Commonwealth to suspend or revoke a license is the current enforcement mechanism.<br><br>The VPLC also raised concerns that regarding the power of attorney document as a means to transfer legal rights to another person. Under current Virginia, the use of a power of attorney to enroll a child in school is permitted. Alternatively, health care providers are allowed to develop their own policies regarding whether to treat a child who is not in the care of a parent or other legal custodian. The VPLC believes that recommendation one raises the risk that children in these temporary placements will not have realistic access to health care.<br><br>**Prevent Child Abuse Virginia** opposes recommendation one. The PCAV brings up the following concerns:<br>• Being moved from home to home and caregiver to caregiver are traumatic experiences for children. The adults providing care in the model program foster homes should be required to have trauma informed training and adhere to trauma-informed parenting practices.<br>• What types of children are they seeking to serve? If there is any suspicion of child abuse or neglect, will their caretakers be considered |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| | mandated reporters?<br>• What is the underlying funding for the model program? If it receives any state government funding, how will it be monitored for quality?<br>• What is the long-term vision for the children who would be served?<br>• Will children come from faiths other than Christian be considered?<br>• Why does it seem to be targeting just the youngest children?<br>• The Volunteer Emergency Foster Care (VEFC) program, a similar church based program, operated in the state several years ago. It might be useful to explore the reasons why it no longer exists. It may inform decisions to be made regarding this program.<br><br>Donna Sayegh a citizen from Portsmouth, Virginia commented that she did not give support this recommendation. "Parents need to learn skills to deal with the issues between them and their children. The government has over interceded into parents lives too much as it is. Use Super Nanny's services to come into the home and educate the parents in coping with conflict." |

# STUDY ON THE USE OF FEDERAL, STATE, AND LOCAL FUNDS FOR PRIVATE EDUCATIONAL PLACEMENTS OF STUDENTS WITH DISABILITIES YEAR TWO

## PUBLIC COMMENTS IN RED

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| **Finding 1 – There are challenges with using CSA wrap-around services to maintain LRE.**<br>The special education mandate cited in §2.2-5211 (B)(1) of the *Code of Virginia* may be utilized to fund non-residential services in the home and community for a student with an educational disability when the needs associated with his/her disability extend beyond the school setting and threaten the student's ability to be maintained in the home, community, or school setting. In 1996, the State Executive Council (SEC) authorized the use of Children Services Act (CSA) funds for non-Individualized Education Program (IEP) services when a student with a disability exhibits needs that extend beyond the responsibility of the public schools. These are non-residential services provided in the home and community when the needs associated with the student's disability extends beyond the school setting. The policy recognizes that needs arising from significant disabilities are not contained within school walls and may provide significant challenges to families and communities. The use of mandated special education funds for "wrap-around" services may be used when the child's disability/behavior:<br>• interferes with family routines;<br>• creates safety concerns in community; and<br>• compromises their adjustment across settings.<br>However, these CSA state pool funds for wrap-around services for students with disabilities may not be used to fund services in the school setting or for services provided by school employees. The term "school setting" means an environment in which school services are being provided. Thus, wrap-around services can only be provided by private providers outside of the school setting. While CSA funds are not to be used to supplant school division funds, this may be a barrier to the provision of services in the least restrictive environment (LRE) because some school divisions have created programs with | 1. Request the SEC revisit existing policy restrictions and budgetary constraints with CSA state pool funds for wrap around services for students with disabilities. This review will include whether the community match rate could be utilized, existing parental co-payment policies *for additional services not included in the IEP*, and the prohibition on using funds for non-educational services provided by school employees, and make recommendations to improve both utilization and access to these funds to the Commission on Youth by the 2017 General Assembly Session.<br><br>**PUBLIC COMMENTS**<br>**A parent of a student with disabilities** who has been in private placement for the past four years offered comments in support of all of the Study's Findings and Recommendations. This parent is also a school division employee and has an excellent understanding of the operations and processes regarding the Children's Services Act (CSA) and the Family Assessment and Planning Team (FAPT). This parent stated that what was described as being a 'temporary' necessity to ensure access to his child's education has become a permanent fixture.<br><br>**The Office of Children Services (OCS)** commented that this Recommendation is aimed at increasing utilization of the allocated wrap around services for students with disabilities as established in the Appropriation Act (Item 279.M). OCS is in agreement with the intent to improve utilization and access to these funds. The anticipated result of full utilization of these funds would be to reduce the number of students with disabilities who are placed in private educational placements.<br>In the recently concluded fiscal year (SFY2015), $1,885,811 (86%) of the $2.2 million in allocated funds was expended by 63 of 130 CSA local programs. While all local CSA programs have access to these funds, |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| highly qualified professionals that cannot provide these services outside of the school environment.[1]<br><br>State general funds for CSA wrap-around services are $2,200,000. While these funds are considered mandated, localities do not have to utilize these funds and many chose not to do so. A study conducted in 2013 found that 62 localities opted not to utilize these funds.[2] If all localities opted to utilize these funds, the average state allocation per locality would have been approximately $16,800. This study also found that localities utilizing wrap-around services for students with disabilities have decreased the number of youth served in private day and congregate education programs over a two-year period, while those not providing such services have seen an increase the number of youth served in these more restrictive placements. These data suggest that the provision of wrap-around services to youth positively influences the community's ability to serve youth in the least restrictive placement.<br><br>Localities that opt to use the funds may request additional funds from the balance that is unused by other localities; however, localities do not know if they will receive additional funds until mid-year, which makes it difficult to plan. There is no other dedicated funding for local CSA administrators to use to serve students with disabilities to prevent more restrictive placements other than CSA funds dedicated for private day or residential placements. | over 50% did not utilize them. Data gathered by Commission staff seems to indicate that localities utilizing these funds show lower rates of private educational placements. The OCS suggests that rather than "experiment" with a change to allow school employees to provide non-educational services outside of the school setting, that a more productive approach might be to examine why over 50% of localities choose not to utilize available funds with the intent of increasing such utilization. Additionally, as only 14% of the available funds went unutilized, the Commission might suggest an increase in the annual appropriation for wrap around funds for students with disabilities. A plan for how to allocate such increased funds to accomplish the goal of avoiding costly private educational placements would be a part of any increased funding.<br><br>Any change to the match-rate (i.e., to move to the community-based versus the current "neutral" match rate) for these wrap around services would have a fiscal impact. Specifically it would lower local contributions for these services by 50%, necessitating increased state general fund allocations. Unless the existing match rate can be established as a key impediment to the utilization of these funds, a more productive use of any increased state allocation might be to increase the overall amount of funds available.<br><br>Assessing parents for co-payments is already required for all CSA services with the exception of IEP services. It has not been reported to OCS that the parental co-payment policy deters the use of wrap around funding. It is our understanding that there has been a suggestion to waive co-payment requirements for this service. While OCS has no objection to examining this, it is not anticipated that changing current practice would result in any significant impact on the issue under study.<br><br>**The Virginia Department of Education** has provided guidance to the Commission that all issues related to provision of services in the least restrictive environment are an IEP team decisions. Funding related concerns are developed based upon placement as determined by the IEP team and funding issues cannot be part of the LRE/placement decision. |

[1] Office of Children's Services. (2013). Wrap-around Services for Students with Disabilities Funded Through the Comprehensive Services Act.
[2] Office of Comprehensive Services. (2013). Report to the General Assembly from the Office of Comprehensive Services on behalf of the Secretary of Health and Human Resources. Wrap-around Services for Students with Disabilities Funded Through the Comprehensive Services Act. Retrieved from http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD3952011/$file/RD395.pdf

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 1 (cont.)* | Wrap-around services are non-educational in nature.<br><br>**The Virginia Board for People with Disabilities** supports this Finding and Recommendation.<br><br>**The Arc of Virginia** recommended that this review not be limited to wrap-around services but also include proving supports to students within the school setting. The Arc also requested that the prohibition on using funds for non-educational services provided by school employees be included in the review.<br><br>**Franklin County Community Policy and Management Team** support all of the Study's Findings and Recommendations and notes that the Recommendations demonstrate a concerted effort to align the practices of private educational placements with many of the other services funded through CSA programs such as transition planning, outcome measures, and collaboration to ensure effective service delivery. Franklin County has seen an increase in expenditures for private educational placements and supports any measures that can ensure that the continuum for educational services is appropriate to meet the needs of the community in the most cost effective manner.<br><br>**Goochland County** supports this Recommendation to consider reducing the local match rate to the community-based services level and reviewing current existing co-payment policies to reduce the financial burden on the locality and support the local school system in maintaining students in the least restrictive environment. Goochland County has experienced the following challenges:<br>1. The local share for current mandated foster care and special education costs have risen above budgeted amounts as IEPs are written for private day placements for students with autism and the needs of children in foster care require more restrictive placements.<br>2. The current allocation for wrap-around funds per locality is not sufficient to meet the service needs of students. Goochland County is concerned that the costs of the services to meet our students' needs is greater than the amount of funds allocated to the county. If the funds are exhausted prematurely, there is no guarantee that additional funds will be made available to serve the students. |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 1 (cont.)* | 3. Parents are increasingly advocating for the children to be educated in private schools despite being offered support services in the public school environment.<br><br>**Fairfax-Falls Church Community Policy and Management Team** agrees with this Recommendation and suggested that the workgroup consider changing the name for this particular service to avoid confusion with the Intensive Care Coordination program's adopted model of high-fidelity wrap around.<br><br>**Prince William County Community Policy and Management Team** support the efforts of Virginia Commission on Youth to improve services for students with disabilities. Prince William County Community Policy and Management Team support conducting a review of CSA resources related to provision of non-educational services and strongly support the match rate for all non-educational services used to support students with disabilities be assigned the community match rate.<br><br>**The Rockbridge Area Office of Comprehensive Services** commented that these funds were rarely used due to the constraints placed on their use. If the constraints on the use of wrap-around funds were loosened, the funds could be used in schools to potentially keep students from having to be placed in private day schools.<br><br>**The Virginia Council of Administrators of Special Education (VCASE),** an organization representing over 300 administrators of special education throughout the Commonwealth of Virginia, opposes the Recommendation to review parental co-payment policies for any special education service provided to students with disabilities per their IEPs. It would be a violation of IDEA and the Virginia *Regulations Governing Special Education* to require a parental co-payment for special education placements. However, VCASE strongly supports the use of CSA funds to enhance non-mandated wrap around services to prevent more restrictive special education placements.<br><br>Recommendation 1, as far as reviewing the parental co-payment policy, is also opposed by:<br>• **Henry County Public Schools' Director of Special Education and** |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 1 (cont.)* | **Student Services;**<br>• **Salem City Schools' Division Director of Student Services**;<br>• **Salem City Schools' Superintendent**;<br>• **Carroll County Public Schools' Director of Special Education;**<br>• **Botetourt County Public Schools;**<br>• **Montgomery County Public Schools;**<br>• **Scott County Public Schools;**<br>• **Culpeper County Public Schools' Executive Director for Student Services;**<br>• **Culpeper County Public Schools' Executive Director for Special Education;**<br>• **Culpeper County Public Schools' Support Specialist for the Office of Special Education;**<br>• **Craig County Public Schools' Director of Special Education and Pupil Personnel Services; and**<br>• **Poquoson City Public Schools' Director of Student Services.**<br>The commenters aligned their remarks with VCASE and noted opposition for Recommendation as far as reviewing parental co-payment policies for any special education service provided to students with disabilities per their IEPs. It would be a violation of IDEA and the Virginia *Regulations Governing Special Education* to require a parental co-payment for special education placements. However, all commenters strongly supported the use of CSA funds to enhance non-mandated wrap around services to prevent more restrictive special education placements.<br><br>**A citizen from Portsmouth, Virginia** commented that she did support any of the study's Recommendations. In the Hampton Roads area, there is the South Eastern Cooperative Education program (SECEP). It is her opinion that this is a private educational placement for students with disabilities. The amount of money spent for each child is about $30,000 per year. These schools are like little hospitals. There is no learning to any degree in them except those gifted and talented that can learn quickly and retain what they learn. Private schools are being used because parents do not want their children in these "little hospitals" instead of an educational school. |

| Findings/Conclusions | Recommendations and Public Comments |
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| **Finding 2 – Virginia's existing special education state funding structure does not adequately meet the needs and increasing numbers of hard-to-serve, special education students.**<br>When IDEA was originally enacted, it was estimated that children with disabilities cost approximately twice as much to educate as other children. The most recent attempt to account for the cost of special education spending at a national level was undertaken by the Special Education Expenditure Project (SEEP). SEEP reviewed special education expenditure data from the 1999-2000 school year and found that average expenditures for a general education student was $6,556 compared to $12,474 for students with disabilities — a difference of $5,918 (90.3 percent).[3] Students with the most complex medical and educational needs may actually cost school divisions between 8.8 and 13.6 times more to educate than general education students.[4]<br><br>In Virginia, state funds are provided to school divisions to assist in the cost of implementing the Commonwealth's special education program standards. For each child counted in the school division's average daily membership (ADM), an amount is paid to the school division for this purpose.[5] This per-child amount is referred to as the special education add-on. The per-child special education add-on amount is determined by calculating the theoretical number of teachers and aides necessary to meet the special education program standards in each school (based on information supplied on the December 1 Count of Children Receiving Special Education and Related Services), and then determining the state's share of the theoretical cost of those teachers and aides. The state's share of this cost is determined according to the locality's composite index of local ability to pay. Local school boards determine how much local funding to request from the governing body (city council, town council or board of supervisors) by costing out all of its programs and then subtracting | 1. Request VDOE include in its analysis of regional special education programs other states' funding formulas and policies identified during the course of their study that may be employed in the Commonwealth. VDOE shall also determine the efficacy of Virginia's regional special education programs and assess whether provisions are needed to revise these programs and if these programs should be expanded to other regions of the Commonwealth. VDOE shall report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session.<br><br>**PUBLIC COMMENTS**<br><br>**The Virginia Department of Education,** as part of its analysis of regional special education programs has obtained information from other states regarding comparison of other states' funding formulas. The Department will report findings and recommendations from this analysis to the Commission prior to the 2016 General Assembly Session but asserts that the state funding structure remains outside the purview of existing agency authority.<br><br>**The Office of Children's Services (OCS)** strongly supports this Recommendation. It is believed that strengthening public school options for students with disabilities, including the regional special education programs, is likely to have the greatest impact on higher than desired utilization of private educational programs.<br><br>**The Virginia Board for People with Disabilities** agrees that an analysis of other states' funding formulas and policies would be useful. However, the second sentence of the Recommendation is unclear. Furthermore, any consideration of expanding Virginia's regional special education programs must be guided both by student outcomes and by the Individuals with Disabilities Education Act's (IDEA's) mandate that |

[3] Chambers, J.G., Parrish, T.B., & Harr, J.J. (2004). What Are We Spending on Special Education Services in the United States, 1999-2000, *Special Education Expenditure Project, Center for Special Education Finance*. Retrieved from http://csef.air.org/publications/seep/national/AdvRpt1.PDF.
[4] These students are classified as high-need, low incidence.
[5] Virginia Department of Education. (n.d.). *How Special Education Programs are Funded in Virginia's Schools*. Retrieved http://www.doe.virginia.gov/special_ed/grants_funding/how_speced_funded.pdf.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| out the anticipated revenues from state, federal and other sources. The per-pupil funding amount may vary by school division depending on the size of the special education student population.<br><br>The *Constitution of Virginia* requires the Board of Education to prescribe standards of quality for the public schools of Virginia. These standards, found in the *Code of Virginia* §§ 22.1-253.13:1 through 22.1-253.13:10, are known as the Standards of Quality (SOQ) and encompass the requirements that must be met by all Virginia public schools and divisions for the provision of special education services.[6] All local school divisions are expected to meet the division and school student-teacher ratios specified in the SOQ, which are based on ratios of students in average daily memberships to full-time equivalent teaching positions. The special education staffing requirements are prescribed in Virginia's *Regulations Governing Special Education Programs for Children with Disabilities.*[7] The service level, Level I or II, is based on the amount of time the student receives special education. Students who receive less than 50 percent of their instruction from a special educator are considered to receive Level I services. Students receiving 50 percent or more of their instruction from a special educator are considered to receive Level II support according to state standards.[8] No more than 14 children are to be assigned to a single class period if there are similar achievement levels and one subject area and level are taught. No more than 10 students are to be assigned to a single class period when there are varying achievement levels.[9]<br><br>In 2014, the Virginia Department of Education outlined a variety of issues with SOQ funding.[10] Among the issues identified were the challenges in serving the increasing number of those special | students with disabilities have the opportunity to receive an education in the least restrictive environment. It is unclear what "efficacy of Virginia's regional special education programs" means in the context of this recommendation. What specific outcomes are COY asking VDOE to assess? The Board recommends that any assessment of Virginia's regional special education programs includes consideration of at least the following:<br>1) student academic success,<br>2) post-secondary academic success,<br>3) post-graduation employment success, and<br>4) consistency with the tenet of least restrictive environment.<br><br>It is also unclear what "provisions" the Recommendation refers to that may be needed to "revise" regional special education programs, as well as what end such provisions should aim to achieve. Does this refer to statutory provisions? Regulatory provisions? School policy provisions? All of the above? Any recommended modifications of these programs should be based on the goal of improving outcomes and conforming to the tenet of least restrictive environment. The Board recommends consideration of the following wording: *Request that VDOE include in its analysis of regional special education programs other states' funding formulas and policies that could be of benefit to the Commonwealth. VDOE shall evaluate the effectiveness of Virginia's regional special education programs in meeting the educational needs of students with disabilities in the least restrictive environment. On the basis of that evaluation VDOE shall make recommendations as to whether these programs should be discontinued, modified, or expanded to other regions of the Commonwealth. Any modification or expansion of these programs shall be based on improving student outcomes and the tenets of least restrictive environment.* |

[6] Virginia Department of Education. (2014). *2014 Annual Report on the Condition and Needs of Public Schools in Virginia.* Retrieved from http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD4072014/$file/RD407.pdf.
[7] 8 VAC 20-81-340.
[8] Virginia Department of Education. (2010). *Regulations Governing Special Education Programs for Children with Disabilities in Virginia.* Retrieved from http://www.doe.virginia.gov/special_ed/regulations/state/regs_speced_disability_va.pdf.
[9] Ibid.
[10] Virginia Department of Education. (2014). *2014 Annual Report on the Condition and Needs of Public Schools in Virginia.* Retrieved from http://leg2.state.va.us/dls/h&sdocs.nsf/By+Year/RD4072014/$file/RD407.pdf.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| education students who are the most challenging to serve (i.e., children with Autism or Other Health Impairments), which has increased by 23% since 2009. As part of its recommendations in 2012, the Board of Education requested the Joint Legislative Audit and Review Commission (JLARC) to include the below-noted issues in its study on the efficiency and effectiveness of elementary and secondary school spending in Virginia. JLARC is to report its findings in November 2015 but it is unclear as to whether JLARC will address these issues. The items the Board of Education asked JLARC to consider were:<br>• assigning weights for students who may be at-risk or who may have disabilities and require additional support, including services to special education students; and<br>• mitigating the perverse incentive of reducing a school division's special education funding when it includes students with disabilities into general education classrooms or uses other instructional supports to meet students' needs without special education services.<br><br>School divisions may also confront challenges serving the medical needs of students with disabilities. These students often require multiple services such as speech-language pathology, assistive technologies, and specialized transportation. Schools may also have to provide assistive technology for children with hearing or visual impairments and modify classrooms to accommodate specific physical disabilities. Other services may include providing therapists and nurses to meet physical developmental needs, as well as psychologists, counselors, and other mental health experts to support students' behavioral needs. The school division is responsible for providing such services, whether they are for one student or multiple students. For example, a small rural school division may need to purchase a specialized van and contract with a driver to provide transportation for one student. These extra services are usually unnecessary for students without disabilities, but are often essential for children with disabilities to learn in school. | **The Arc of Virginia** recommended this Recommendation be changed to have JLARC study Virginia's existing special education funding structure. The ARC recommends the following:<br>*Request JLARC to evaluate the efficacy of current funding formula in the context of maximizing the least restrictive placement for all students and reducing reliance on regional program, private day, and residential placement of students with intellectual and developmental disabilities. The study should evaluate the feasibility and cost-effectiveness of providing students with disabilities more integrated educational placements.*<br><br>**Franklin County Community Policy and Management Team** supports this Recommendation.<br><br>**Prince William County Community Policy and Management Team** support an analysis of regional special education programs.<br><br>**The Rockbridge Area Office of Comprehensive Services** agrees with this Recommendation. The cost of establishing a regional program is currently cost prohibitive to rural, low socio-economic, small school divisions. |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| **Finding 3 – The Utilization and Costs of Private Placements for Special Education Students in Virginia have Increased Significantly.**<br>For students with significant disabilities, or those requiring specialized services and/or supports, alternative settings may be necessary to meet the individualized need of the child. Pursuant to IDEA and Virginia regulations, no single model for the delivery of services to any specific population of children with disabilities is acceptable for meeting the requirement for a continuum of alternative placements.[11] All placement decisions are to be based upon the individual needs of the child. For some children, a private day or residential placement may be the least restrictive environment. An IEP team or a CSA team may decide to place a child with an IEP in a private school or facility for educational reasons that is licensed or has a certificate to operate from the VDOE. Faced with the complex needs of students with disabilities, many school divisions place these students in private schools in order to meet their educational needs. While private schools are an appropriate option within the continuum of placement options, they usually are quite costly.<br><br>While the number of special education students in the Commonwealth has declined slightly in recent years, data shows that net total expenditures for private day placements under CSA have increased by 32% between Fiscal Years (FY) 2012 and 2015 and 11.7% between 2014 and 2015.[12] Net total expenditures for residential services for special education have increased 5% since 2012 and 8.4% since 2014.[13] The number of youth served in private day placements in FY 2014 is 2,452, which is an increase of 4.7% since 2013. The annual CSA expenditure per child for special education services is over $40,000. This is in contrast to the average state per | 1. Introduce a language-only budget amendment stating that localities may require the local share of the Special Education Private Day Placements come from the localities' school boards' budget, rather than the localities' general government budget. (The Advisory Group was split on this recommendation.)<br>2. Introduce a budget amendment *for VDOE to convene* ~~convening~~ an interagency workgroup to assess the barriers to serving students with disabilities in their local public schools. The workgroup shall assess existing policies and funding formulas including school division's program requirements, localities' composite indices, local CSA match rate allocations, local CSA rate setting practices, the impact of caps on support positions, policies for transitioning students back to the public school, and funding for local educational programming based on models which are collaborative and create savings for both local and state government while providing youth an educational option within their communities. Membership shall include a balance of local and state representative, all impacted state agencies, local education agency (LEA) representatives, local CSA representatives, local government officials, local special education administrators, stakeholder organizations, parent representatives, the Arc of Virginia, *the Coalition for Students with Disabilities*, and members of the Virginia General Assembly. The workgroup shall make recommendations to the Virginia Commission on Youth prior to the 2017 General Assembly Session.<br>3. Request the Office of Children's Services (OCS) collaborate with VDOE and include a track in their annual conference on best practices and effective strategies for serving children with disabilities in the least restrictive environments and increase knowledge and understanding on working with students with disabilities, *and their parents*, as well as improving coordination between schools and CSA. |

[11] 8 VAC 20-81-130.
[12] Office of Children's Services. (2015). *CSA Pool Reimbursement Request Report Comparison*. (FY12 to FY 15). Retrieved from http://www.csa.virginia.gov/publicstats/pool/poolreports/state_pool_categories.cfm?fy=2015.
[13] Ibid.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| pupil amount per special education student, which was $13,0497 in 2014.[14] [15] This amount is an average and will fluctuate by locality depending on the locality's composite index value.<br><br>Once the child is placed in a private day or residential program, the cost of meeting the needs of the child is shifted from the local education agency (LEA) to the locality's budget because in most localities, schools do not cover the cost of the placement. Although LEAs lose SOQ funding for the student, the loss of funds is minimal. The local CSA Office is bound by federal law to abide by provisions and placement determinations set forth in the IEP, even if they are willing to identify community based services and supports that will help the child remain in their home school. School budgets do not cover or oversee the costs of the private day placement, other than transportation costs, because the local CSA match typically comes from the general fund portion of the locality's budget. Several interviewees noted that this should be taken into account when calculating the school's annual funding level from the local government's budget.<br><br>Another factor is that once a child is placed in a private setting, CSA does not require localities to maintain active case management of referred students by the Family Assessment Planning Team (FAPT). Many local CSA offices do not case manage referred students because, pursuant to IDEA, CSA policies are not to impede the delivery of IDEA services and CPMTs cannot deny funding for a private day or residential placement that included in a student's IEP. While some localities remain actively involved in some cases, other localities rely upon the CSA coordinator to process purchase orders and ensure that the locality properly reimburses the private provider. One interviewee noted that, once the IEP team determines a private placement is necessary, CSA is merely a "caboose in the process." According to Best Practice Recommendations developed by VDOE, the FAPT can be brought into the planning for a student with a | 4. Request the OCS include in its annual training plan strategies best practices and effective strategies for serving children with disabilities in the least restrictive environment and increase knowledge and understanding on working with students with disabilities, *and their parents*, as well as improving coordination between schools and CSA.<br><br>**PUBLIC COMMENTS**<br><br>**Franklin County Community Policy and Management Team** support all of these Recommendations.<br><br>**Prince William Community Policy and Management Team** stated that for Recommendation 1, clarification of a locality's options to fund special education private day placements is helpful. However, caution must be used to avoid an unintended consequence of creating opportunities for families to impose fiscal obligations for placement services to be paid without appropriate prior collaboration with local government offices.<br><br>**The Rockbridge Area Office of Comprehensive Services** commented for Recommendation 1 that there is currently no funding in school budgets to provide these funds and asked how this would be remedied? Would the Commonwealth go back to the way it was handled prior to the establishment of CSA, where the state provided school funds?<br><br>**The Virginia Board for People with Disabilities** has no position on Recommendation 1.<br><br>**The Virginia Association of School Superintendents** asks that the Commission members reject Recommendation 1. During the two Advisory Committee meetings, information was presented that the primary purpose for the increase in costs for these placements was due to the increase in needs of the children serviced not in which local budget provided the funding. The primary purpose for this recommendation was not to reduce costs but to address a perceived issue with decision-making as it is related to these placements under the CSA. However, data was |

[14] Virginia Department of Education. (2015). Special Education in Virginia. *Presentation on June 15, 2015 to the Virginia Commission on Youth's Advisory Group on Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities – Year Two.*
[15] This includes state, local, and federal funds.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| disability at the earliest indication that the student may be in need of supports that fall outside the purview of the public school.[16] The FAPT can work with school personnel to identify non-educational issues that may be negatively affecting the student's performance in school. Such issues might include difficulties in the family/home, mental health issues not related to the student's disability, behavioral issues not related to the student's disability, involvement with the juvenile justice system, etc. The FAPT/MDT can develop an Individual Family Services Plan to identify strategies for assisting the child and/or family.<br><br>Another complication is the difficulty of transitioning a child back from a private day placement to the public school setting. While transitioning the child back to the LRE is an expectation pursuant to IDEA, the process can be challenging. A child removed from his/her home school may experience varying degrees of difficulty in adjusting to a return to those environments. In addition, stringent parental consent provisions make it even more difficult to transition the child from a private placement to the public school setting, even if assessments and other documentation indicates that the student can be adequately served in their home school.<br><br>In the Spring of 2008, the State Executive Council requested that a workgroup be formed to improve communication and coordination between local schools and CSA. A statewide survey was also conducted of private day school providers, directors of special education in school divisions, and local CSA coordinators. Approximately 232 stakeholders responded to questions relating to private day school utilization, challenges to program creation, communication practices and best practice strategies. A key theme from the workgroup was the need for cross trainings of both CSA and school staff on each other's program responsibilities and enhancing communication between private providers, schools and FAPTs to assist student transition back to public school. | not provided that shows the magnitude of this issue across the Commonwealth. Information was presented from least four school divisions indicating that great efforts are being made to work with the other CSA agencies on these issues in a cooperative manner. These comments also stated that this recommendation if implemented would have a serious negative impact on these cooperative efforts.<br><br>**VCASE** opposes Recommendation 1. While it may appear to be permissive, the recommendation that it be contained in the state budget will send a very chilling message to localities and will set back efforts to foster the philosophical foundation of the CSA at the local level. VCASE respectfully requests the data to show the magnitude of this issue across the Commonwealth. VCASE expressed concern that the needs of students with disabilities have increased over the past several years. VCASE supports the cooperative spirit and framework of CSA, and urges the Commission to focus its recommendation on supporting and improving cooperation between local CSAs and agencies in meeting the increasingly challenging needs of students with disabilities. If this recommendation is implemented, it would have a significant negative impact on the positive and cooperative relationship that exists between many local CSAs and school divisions.<br><br>Recommendation 1 is also opposed by:<br>• **Henry County Public Schools' Director of Special Education and Student Services;**<br>• **Salem City Schools' Division Director of Student Services**;<br>• **Salem City Schools' Superintendent**;<br>• **Carroll County Public Schools' Director of Special Education;**<br>• **Botetourt County Public Schools;**<br>• **Montgomery County Public Schools;**<br>• **Scott County Public Schools;**<br>• **Culpeper County Public Schools' Executive Director for Student Services;**<br>• **Culpeper County Public Schools' Executive Director for Special Education;** |

[16] Virginia Department of Education. (2009). *CSA and Schools Communication and Coordination Regarding Special Education. Best Practice Recommendations*. Retrieved from http://www.doe.virginia.gov/support/comprehensive_services_act/csa_special_ed_best_practice.pdf.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 3 (cont.)* | • **Culpeper County Public Schools' Support Specialist for the Office of Special Education;**<br>• **Craig County Public Schools' Director of Special Education and Pupil Personnel Services; and**<br>• **Poquoson City Public Schools' Director of Student Services.**<br>These commenters aligned their remarks with VCASE and stated Recommendation 1 will create specific difficulties for local governing bodies and school divisions and create an atmosphere of divisiveness. It was noted that the Advisory Group was split on this Recommendation. Salem City Schools stated the needs of students with disabilities have increased over the past several years due to the incidence of autism and other disabilities. The permissive language used would undermine the cooperative spirit and framework of CSA. Many of these commenters urged the Commission to focus its recommendations on supporting and improving cooperation between local CSAs and agencies to meet the increasingly challenging needs of students with disabilities. Scott County Public Schools stated Recommendation 1 would be devastating to the public schools of Virginia. Scott County Public Schools has a good working relationship with the local CSA. The system in place works well for both agencies. A mutual respect and cooperative relationship has developed that benefits students in need within Scott county; and this relationship should not be disrupted. Student needs have increased over the years; if the school boards had to take over this responsibility, new personnel would have to be employed to meet the requirements of this mandate. In the opinion of Scott County Public Schools, "If something isn't broken - don't try to fix it"!<br><br>**Fairfax-Falls Church Community Policy and Management Team** opposes Recommendation 1 to for a language-only budget amendment that localities may require the local share of the Special Education Private Day Home Placements from the localities' school boards' budget rather than local government because this option is currently available to all localities.<br><br>**The Office of Children's Services (OCS)** supports Recommendation 2 and stated further study is necessary to assess the barriers to serving students with disabilities. As decisions about student placements are made by educational personnel through the IEP process, OCS would |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 3 (cont.)* | suggest that the lead for such a workgroup be the VDOE.<br><br>For Recommendations 3, **OCS** noted that they already collaborate extensively with VDOE, including sessions at the CSA annual conference. OCS does not agree that CSA conference is the best venue to accomplish the goals in this Finding. The focus of these sessions has been on legal and other areas of interface between CSA and education, such as the complex interactions between the educational, foster care and systems. The majority of attendees at the annual CSA conference are not educators nor are they involved in the IEP process (in fact, federal law prohibits FAPT teams from in any way altering an IEP once developed). OCS believes that the CSA conference may not be the best venue to reach school personnel to provide training on best practices and effective strategies for serving children with disabilities in the least restrictive environment.<br><br>For Recommendations 4, **OCS** agreed that training and other activities aimed at improving coordination between schools and CSA is appropriate and is willing to explore the most effective methods to accomplish this. However, the same considerations expressed about Recommendation 3 apply to Recommendation 4.<br><br>**The Arc of Virginia** requested for Recommendation 2 that the interagency workgroup focus on "*integrated*" educational options and that the Coalition for Students with Disabilities be included.<br><br>**The Virginia Association of Community Services Boards** supports Recommendation 2, which would give further study to the barriers of educating children with disabilities within their local school system.<br><br>**Goochland County** supports Recommendation 2 to convene an interagency workgroup to assess the barriers to serving students in the home school, which encourage the local school system to serve children within the public school and allow localities more strategies to lower the costs of educating students. A review of private placement utilization in Goochland County shows that a majority of the students served by CSA in private day placements are classified as having autism. These students are, by far, the most expensive day placements ($75,000/year) – more than doubling the costs of private day education placements ($35,000/year). |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 3 (cont.)* | **Prince William Community Policy and Management Team** support Recommendation 2.<br><br>**The Virginia Board for People with Disabilities** supports Recommendation 2.<br><br>**The Rockbridge Area Office of Comprehensive Services** support Recommendation 2 convening of an interagency workgroup to assess the barriers to serving students with disabilities in the home school (i.e., licensure requirements established by the VDOE for the teacher of record, how to serve students with disabilities who require small group instruction in a self-contained placement to show academic progress – in Virginia this requires a special educator also licensed to teach general education curriculum which makes it very difficult to provide in the public school setting).<br><br>**The Virginia Board for People with Disabilities** supports Recommendation 3 but recommends rewriting to improve clarity.<br><br>**A former Community Policy and Management Chair, former Director of Special Education, past Education Specialist in Learning Disabilities and Special Education, past Developmental Disabilities Protection and Advocacy Manager** expressed support for Recommendation 2. She requested the membership list include Virginia Association of Independent Specialized Education Facilities representatives, Virginia private day and residential special educations schools representatives (non-VAISEF members), This will make sure that the voices of representatives of the Virginia's special education private day and residential facilities have a voice.<br><br>This commenter also supports Recommendations 3 and 4 but asked that language be added so it reads "*improving coordination between public schools, private day and residential facilities, and CSA*" This is to ensure there is coordination between all parties involved with the education of students with disabilities.<br><br>**The Virginia Association of Community Services Boards** supports Recommendations 3 and 4 and noted support for incorporating best practices involving students with disabilities into OCS's annual conference and training plans. |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 3 (cont.)* | **Prince William Community Policy and Management Team** supports Recommendations 3 and 4 and noted agreement with using OCS training resources and opportunities to increase awareness of best practices and knowledge of associated requirements. To improve on these recommendations, suggest inserting "*and their parents*" after the phrase " … working with students with disabilities".<br><br>**The Rockbridge Area Office of Comprehensive Services** support Recommendations 3 and 4 and further recommend that these trainings be made available to school division representatives at vendor fairs or by regional meetings.<br><br>**The Virginia Board for People with Disabilities** supports Recommendation 4 but recommends rewriting to improve clarity. |
| **Finding 4 – Virginia's regional special education programs allow select school divisions to serve students in an additional option in the continuum of placements but the existing structure needs to be re-evaluated.**<br>In certain regions of the Commonwealth, children may be served in public regional special education programs. Regional special education programs deliver services to students either in the students' home school, in a neighboring division's school, or in separate schools managed by the program.[17] There are 11 regional special education programs in operation throughout Virginia. Over half (76) of the Commonwealth's 132 school divisions participate in at least one regional program, 14 school divisions participate in two programs, and one school division participates in three regional programs. Virginia's regional programs were created in the 1970s to reduce the Commonwealth's and local special education costs and improve the availability of specialized services for a small segment of children with disabilities in Virginia public schools. Regional programs can provide participating localities another option for serving students with disabilities. Accordingly, participating localities may achieve lower CSA educational costs because a lower percentage of the school divisions' special education students are placed in private special education services. | 1. Request the VDOE to conduct a study on Virginia's regional special education programs and report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session. *(This Recommendation is unnecessary if Finding 2, Recommendation 1 is adopted.)*<br><br>**PUBLIC COMMENTS**<br><br>**The Office of Children's Services (OCS)** strongly supports this Recommendation. It is believed that strengthening public school options for students with disabilities, including the regional special education programs, is likely to have the greatest impact on higher than desired utilization of private educational programs.<br><br>**The Virginia Board for People with Disabilities** supports this Recommendation and refers the Commission to its comments on the Recommendation associated with Finding 2.<br><br>**The Arc of Virginia** requested that this Recommendation include the following language:<br>*This analysis should include how Virginia's regional program model will work to provide more integrated educational opportunities for students who participate in a regional program.* |

[17] Virginia Joint Legislative Audit and Review Commission. (2012). *Encouraging Local Collaboration Through State Incentives.* Retrieved from http://jlarc.virginia.gov/Meetings/December12/Rpt433.pdf.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| VDOE sets the tuition rates that regional special education programs may charge to the participating school divisions. At the end of each semester, school divisions may claim reimbursement for the state share of the tuition paid to the fiscal agent of the regional program. The composite index is applied to the tuition paid (not to exceed the approved rate) to determine the state share. School divisions are not allowed to count these students in ADM.[18] The Commonwealth's direct aid to public education includes funding designated for these programs. In the 2015 Appropriations Act, the appropriation for these programs was $79,503,166 in FY 2015 and $84,204,352 in FY 2016. In FY 2014, 4,464 students were served in a regional special education program with an average per pupil cost of $29,097.[19]<br><br>While rules and regulations in the educational arena have changed significantly over the past several years, the regulations and policies applicable to Virginia's regional programs have not been revised since the 1970s. Under the federal *No Child Left Behind Act* of 2001, schools must report adequate yearly progress to determine whether schools are successfully educating their students and whether students are making progress toward meeting state academic content standards. Virginia's public schools and school divisions are required to provide information about student achievement, accountability ratings, attendance, program completion, school safety, teacher quality, and other topics. School-specific and division-specific information can then be accessed on the VDOE website under the school report card. Because regional programs are not LEAs, student achievement data and other quality measures are not linked to the regional program but are instead attributed to the child's home school division. Therefore, it is difficult to ascertain the effectiveness of the regional programs as well as assess other critical factors linked to high-achieving special education programs such as attendance and disciplinary practices. Additionally, there is no requirement that a certain percentage of funding be dedicated to programmatic rather | **The Virginia Association of Community Services Boards** supports further study on Virginia's regional special education programs.<br><br>**Franklin County Community Policy and Management Team** support this Recommendation.<br><br>**Prince William County Community Policy and Management Team (CPMT)** supports this Recommendation.<br><br>**The Rockbridge Area Office of Comprehensive Services** support this Recommendation and further recommend that data be collected on the efficacy of regional programs in regards to whether or not they reduce the number of students who are placed in private day school settings and their success regarding student academic achievement outcomes.<br><br>**Botetourt County Public Schools** commented that regional special education programs are not private placements which students with disabilities are placed and do not involve CSA funds. This is a funding mechanism for school divisions who participate in a regional program to share resources and personnel for very low incidence disabilities. Botetourt County Public Schools does participate in the Roanoke Valley Regional Program. This Finding and Recommendation do not appear to be related to the study and Botetourt County Public Schools asks that it be removed. |

[18] Virginia Department of Education. (n.d.). *How Special Education Programs are Funded in Virginia's Schools*. Retrieved http://www.doe.virginia.gov/special_ed/grants_funding/how_speced_funded.pdf.

[19] Virginia Department of Education. (2015). Special Education in Virginia. Presentation on June 15, 2015 to the Virginia Commission on Youth's Advisory Group on Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities – Year Two.

| Findings/Conclusions | Recommendations and Public Comments |
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| than administrative components. | |
| **Finding 5 – There is no available data about the effectiveness of CSA-funded private day and residential programs.**<br>For students with significant disabilities, a private day or residential program may be the best option so that the student achieves FAPE. According to VDOE, 125 licensed private schools in Virginia serve students with disabilities.[20] This number includes both private day and private residential schools.<br><br>According to § 22.1-321 of the *Code of Virginia*, the Superintendent of Public Instruction is tasked with issuing licenses for schools for students with disabilities. A school for students with disabilities means a privately owned and operated preschool, school, or educational organization, maintained or conducting classes for the purpose of offering instruction, for a consideration, profit or tuition, to persons determined to have a disability as defined by the Regulations governing Special Education Programs for Children with Disabilities in Virginia (8 VAC 20-81). Schools may also be accredited by governing entities such as the Virginia Association of Independent Special Education Facilities (VAISEF) and provide an array of curricula, programs, and services in a variety of settings. Although all private special education schools are licensed, not all schools are accredited.<br><br>In FY 2014, 2,796 youth were served in a private special education placement.[21] Of these children, 2,452 were educated in a private day program, 118 were educated in a residential program (non-Medicaid), and 226 were educated in a Medicaid residential program.<br><br>According to a 2008 survey conducted by VDOE and the Office of Children's Services, a number of factors influence decision making regarding placement into a private day school. The survey identified three recurring factors influencing student placement in a publicly funded, private program: | 1. Direct/Request that VDOE work with private providers including the Virginia Association of Independent Specialized Education Facilities, the Virginia Council for Private Education, the Virginia Association of Independent Schools, the Southern Association of Colleges and Schools, the Virginia Coalition of Private Provider Associations, *the Virginia Association of Community Services Boards, local school divisions*, stakeholder groups, and parent representatives to identify and define outcome measures to assess students' progress such as assessment scores, attendance, graduation rates, transition statistics, and return to the students' home schools.<br>2. Direct/Request VDOE establish a procedure requiring all assessment scores for private day students tagged as 'Special Situation' be included in the student's "home" school scores.<br>3. Direct/Request OCS to report annually CANS and CANVaS scores that measure educational outcomes by service placement name and type for all students being served in CSA-funded educational placements.<br><br>**PUBLIC COMMENTS**<br><br>**The Virginia Department of Education** would encourage the Commission to include, among the list of stakeholders requested to define outcome measures, *"local school divisions"*. The Department would also request that Recommendation 2 to remain broad and refrain from using specific coding terms until a thorough analysis of existing programs and guidance regarding data collection and analysis can be executed.<br><br>**The Office of Children Services (OCS)** would support Recommendation 3 with the understanding that the Child and Adolescent Strengths and Needs (CANS) instrument contains only three items specifically in the educational domain, School Attendance, School Achievement, and School Behavior, each reported on a 4-point scale. The data collection |

[20] Virginia Department of Education. (2014). *Licensed Private Schools for Students with Disabilities*. Retrieved from http://www.doe.virginia.gov/special_ed/day_residential_schools/directory.pdf.
[21] Office of Children's Services. (2014). *Special Education Services Under the CSA*. Retrieved from http://www.csa.virginia.gov/html/manual_pubs/Reports/2014/GA-FY14-REPORT%20ON%20SPECIAL%20EDUCATION%20SERVICES%20UNDER%20THE%20CSA.pdf.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| • availability of appropriate services in the public schools;<br>• limitations on LEA staff in serving children; and<br>• parent preference.[22]<br>While private special education schools have developed creative and innovative programming to address the unique needs of students with disabilities, unlike public schools, private schools are not formally held accountable for student progress. Public schools have accreditation ratings that reflect student achievement on SOL tests and other approved assessments in the four core academic areas. Each school's accreditation status is reported publically on their school report card and published on the VDOE website. Private schools frequently specialize by age, disability classification, services, and environment. A compilation of this information with associated student achievement indicators and transition outcomes would be helpful in assessing effectiveness.<br><br>In addition, the assessment scores for private day students are tagged as 'Special Situation' and are not reported back to the student's "home" school; the scores are reported back to the LEA, but they are only used for LEA accreditation. Therefore, the students' scores are averaged in with the school division's scores. Because students' scores are not reported back to the sending school, it is unknown how many students in private day settings are doing with their assessments fail their SOL tests.<br><br>As of July 1, 2009, the Child and Adolescent Needs and Strengths (CANS) assessment tool the CANS became the mandatory uniform assessment instrument required for children and youth served through CSA. The CANS is a multi-purpose tool developed for children's services to support decision-making, including level-of-care and service planning, to facilitate quality improvement initiatives, and allows for monitoring of service outcomes. The CANS collects information on three educational elements, school achievement, school behavior, and school attendance. CANS assessments are completed online as required by §2.2-5210 of the *Code of Virginia*. The online version of CANS is known as CANVaS and is an | suggested in Recommendations 1 and 2 for the Finding could be expected to be more productive and informative.<br><br>**The Virginia Board for People with Disabilities** supports all three Recommendations and further strongly recommends that to the maximum extent possible, effectiveness and outcome data mirror the data collected for students with disabilities receiving services under an Individualized Education Program (IEP) in the public school system. Only if data are consistently collected, reported, and analyzed can there be reliable comparison of student outcomes and achievement.<br><br>**The Virginia Association of Community Services Boards (VACSB)** supports Recommendation 1 and Recommendation 3 and noted support for increased reporting and accountability among schools. The VACSB asked to be included in the list of workgroup participants.<br><br>**Goochland County** supports this Finding and Recommendations to identify outcome measures to assess student progress. As the utilization and costs of private day educational placements rise, the need to understand the outcomes produced by these programs is important to understand the efficacy of the programs. Standard outcome measures for the varying types of special education programs would help with program evaluation, costs/benefit analysis, and individual education planning.<br><br>**Franklin County Community Policy and Management Team** support Recommendations 1, 2, and 3.<br><br>**Prince William County Community Policy and Management Team (CPMT)** support Recommendation 1, 2, and 3.<br><br>**The Rockbridge Area Office of Comprehensive Services** support Recommendations 1 and 3. For Recommendation 2, this commenter stated that students attending private institutions are included in the "home" assessment scores.<br><br>**Fairfax-Falls Church Community Policy and Management Team** commented for Recommendation 1 that workgroup to consult with existing organizations such as Virginia Association of Independent Specialized |

[22] McKinney, J. (2011). *The Privatization of Special Education.* Virginia Commonwealth University Scholars Compass.

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| interactive web site that collects assessment information.<br><br>The CANS is initially required for all youth receiving CSA-funded services. In addition, all youth placed in private day or residential placements receive an annual CANS re-assessment. However, information from the CANS is not shared. Having this information would be beneficial to assess if the child is achieving academic success and to allow the CSA/FAPT to assess whether the child or family would benefit from additional services.<br><br>*Finding 5 (cont.)* | Education Facilities to determine what data currently exists to evaluate the effectiveness of these programs. In addition, working with the provider community will allow appropriate measures to be utilized to evaluate academic progress.<br><br>For Recommendation 3, **Fairfax-Falls Church Community Policy and Management Team** stated that some of their members expressed concern utilizing the CANS educational items rather than measures that have been designed for academic settings.<br><br>**The Arc of Virginia** requested that the Commission consider the following Recommendation for this Finding:<br>*Require private day and residential special education facilities be included on the VDOE school report card system and that programs report information on student achievement, assessment scores, attendance, disciplinary practices, program completion, and transition to LRE.*<br><br>**A parent of a student with disabilities** who has been in a private day placement since October of 2011 noted an overall lack of accountability and transparency. Given the name of any public school in Virginia, any person can access SOL pass rate data and school report cards within minutes from the VDOE website. This data can be extended further to include desegregated pass rates by race, ethnicity, disability status, disability identification, economic status, gender, etc. Longitudinal data sets can be created that focus on grade levels and subject tests that range from 2002 until 2015. Thirteen years of data are easily obtained by any member of public for any public school. However, no data is available for students in private-day placements. Nobody knows how these children are performing on SOL tests. Tax dollars pay upwards of $100K per year per student to educate these children, yet no level of accountability is expected from the private-day school.<br><br>For Recommendation 3, this parent also commented that most local CSA coordinators use the CANS as solely a funding mechanism. The *Code of Virginia* requires the use of an assessment for CSA funds, yet this parent is not aware of a single locality that analyzes data generated by this assessment tool. |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| *Finding 5 (cont.)* | **The Virginia Association of Independent Specialized Education Facilities (VAISEF)** expressed concern with the Finding 5. The actual title of that Finding states that there is "*no available data" about effectiveness of CSA funded programs."* VAISEF believes that this statement is not totally accurate, as a fair amount of data does exist, but it may not be uniform in its collection, aggregation, and dissemination. Perhaps a better title for Finding 5 would be *"Data about the effectiveness of CSA-funded private day and residential programs may not always be easily accessible nor uniform in its usability to be effectively and quantifiably aggregated."*<br><br>**VAISEF** expressed concern with Recommendation 3 in Finding 5 which requests OCS to annually report CANS and CANVaS scores that measure educational outcomes. However, these scores do not directly measure educational outcomes and do not lend themselves to produce the information being sought in this recommendation about "educational outcomes." Instead, they are more of a clinical measure, with the only educationally related components collected dealing with student behavior, attendance and general achievement. Additionally, especially in the case of a day school placement, the CANS score can be impacted by other services being delivered by multiple sources in the community, not just by the school. VAISEF stated that the educational outcomes measures being sought are adequately being addressed in Recommendation 1 of this Finding. VAISEF requests that Recommendation 3 be omitted from the final report, as it is based on a flawed assumption about the nature of CANS and CANVaS scores as they relate to educational outcomes. |
| **Finding 6 – Virginia's parent consent provisions exceed federal regulations and may hinder serving students with disabilities in the least restrictive environment.**<br>The *Code of Virginia,* at § 22.1-16, authorizes the Board of Education to "promulgate such regulations as may be necessary to carry out its powers and duties..." Virginia must comply with the federal requirements outlined in IDEA 2004, and its federal implementing regulations, at 34 CFR Part 300, to continue to be eligible for federal special education funding. However, Virginia's *Regulations Governing Special Education Programs for Children with Disabilities* exceed federal regulations in approximately 150 provisions. This includes IDEA parental consent provisions. IDEA requires parental | 1. Request VDOE include in the development of the statewide model IEP, an ongoing planning process which facilitates returning students with disabilities served in private placements to the public school setting. The IEP will establish an ongoing process which should commence when a student with a disability is first placed in a private day or residential school. This process should involve the parents, home school officials, CSA officials, the child's teachers, and other involved stakeholders. VDOE shall also include in its guidance to schools best practices for transitioning students from private residential and private day schools such as employing gradual transition strategies and utilization of available community-based programs. *VDOE will investigate the feasibility of incorporating in the* |

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| consent under federal law when:<br>• the child undergoes initial assessment for eligibility for special education services;<br>• the child is initially determined to be eligible for special education services and is "staffed" into special education;<br>• the child is reassessed using formal tests or other measurement tools;<br>• the school division determines that the child is no longer eligible for special education services and terminates services; and<br>• an eligible child is between three and five years old and the school division proposes that an Individual Family Service Plan (IFSP) is used instead of an IEP.<br><br>In Virginia, parental consent also applies to any changes to a child's IEP. The right of consent to changes in a child's IEP were included promote a greater level of partnership between parents and schools. However, when a parent disagrees with an IEP and files for due process, the student is to continue receiving the placement and services in the last agreed upon and implemented IEP during the due process proceedings. This is commonly known as "stay put." If the parent disagrees with any portion of the IEP, the school division may only implement the agreed upon portions of the IEP.<br><br>Case law delineates FAPE and LRE. In *Board of Education v. Rowley,* the United States Supreme Court set forth a two-part inquiry for determining whether a school district has satisfied the FAPE requirement.[23] First, the state must have "complied with the procedures set forth in the Act," including allowing parents of a disabled child to examine school records, participate in meetings, and present complaints. Parents must also be given notice of any proposals to change the educational placement of a child, and they are entitled to an independent educational evaluation. If the child is being educated in the general education classrooms of their home school division, the IEP must be designed to enable the child to achieve passing marks and advance from grade to grade. | *statewide model IEP Medicaid billing for services provided to eligible IEP students.*<br><br>**PUBLIC COMMENTS**<br>**The Virginia Board for People with Disabilities** strongly supports this Recommendation.<br><br>**The Virginia Association of Community Services Boards (VACSB)** supports Recommendation and stated that IEP reviews addressing transitioning students back to public school setting and beginning the discharge planning process immediately after the student is placed in a private day or residential setting.<br><br>**The Arc of Virginia** commented that parents of students with IEPs may struggle with a decision to return to a less restrictive public school setting after experiencing difficulty with a school division's lack of capacity to offer needed educational support services. If a transition plan is developed to return a student back to the public school setting at the start of a private day school placement with goals that parents agree to—which may include the development of resources within the public school to support the student upon return—they may be more open to returning to the school. Weakening parent consent provisions for families in Virginia is not an option.<br><br>**Franklin County Community Policy and Management Team** support this Recommendation.<br><br>**Prince William County Community Policy and Management Team** support this Recommendation.<br><br>**The Rockbridge Area Office of Comprehensive Services** support this Recommendation and further recommend that the VDOE consider removing the barrier of parental consent to the return of students to public school settings from private day or residential school IEP placements.<br><br>**A former Community Policy and Management Chair, former Director** |

[23] Bd. Ed. Hendrick Hudson Sch. Dist. v. Amy Rowley (458 U.S. 176).

| Findings/Conclusions | Recommendations and Public Comments |
|---|---|
| Virginia's parental consent provisions may prevent school divisions from modifying services when the child no longer requires them, even when the school division can show that the best interest of the child is being served pursuant to federal law. This can make it particularly challenging to transition students back to their home school even when the school can provide services which will enable the child to advance towards attaining their annual goals, be involved and make progress in the general education curriculum, participate in extracurricular and other nonacademic activities, and be educated and participate with other children with and without disabilities in those activities.[24] While case law may support the school's desire to transition the child back to the home school, most schools do not wish to pursue costly and time-consuming dispute resolution procedures while further alienating the child/family. This can hinder a school division's ability to serve the child in the least restrictive environment. | **of Special Education, past Education Specialist in Learning Disabilities and Special Education, past Developmental Disabilities Protection and Advocacy Manager c**ommented that CSA should look at how CSA funds can be used to fund the transition of students with disabilities from a private day/residential placement to a public school placement, especially, when the student's transition requires the student to spend part of the day in a private day/residential school and part of the day in the public school. Additionally, both CSA and VDOE data collection should collect and identify the student's placement in both a public school and a private day school. The collection of this data will encourage the student's individualized education program IEP team to use multiple placement options from the continuum to meet the educational needs of the student.<br><br>Additionally, CSA needs to look at allowing CSA funds to be used to fund staff from a private day/residential school to work with the student in the public school. Especially, when the student, parent, public school and private day/residential school determine that this service is needed to ensure a successful transition back to a public school. This could be added to the student's IEP or the student's IFSP as a transition service. At this time, CSA will not fund any cost of this support service since the service is provided in the public school. Thus, this position/service must be funded either by the private day/residential school or the public school. Usually budgets of both do not support such a position/service. For some students this support staff/service will be essential to ensure a successful transition back to a public school. In addition, this service may help reduce a parent's anxiety about moving their child from a private day/residential school back to a public school. This support/service ensures that the student will be supported during this transition by staff who knows the student and the student's current educational needs. |

[24] 34 CFR §300.320(a)(4)(i)-(iii).