

# VIRGINIA COMMISSION ON YOUTH

November 17, 2014

9:30 a.m.

House Room C

## MINUTES

### Attending:

Delegates Mark Keam, Christopher Peace, Richard P. Bell, Peter Farrell  
Senators Barbara Favola, Stephen Martin  
Citizen member Chuck Slemp

### Attending Electronically:

Delegates Mayme E. BaCote, Deirdre Goldsmith

### Not Attending:

Senator Dave Marsden  
Citizen members Frank Royal

### Staff Attending

Kevin Cottingham (intern), Will Egen, Leah Mills, Chad Starzer

## I. Call to Order and Opening Remarks

*Delegate Christopher K. Peace, Chair*

Delegate Peace welcomed everyone to the meeting. Delegate Peace thanked everyone for attending and asked that the members introduce themselves. Delegate Peace then started the meeting by introducing Dr. Steven R. Staples, the Superintendent of Public Instruction.

## II. Virginia Department of Education

*Dr. Steven R. Staples*

*Superintendent of Public Instruction*

Dr. Staples thanked the Commission for the opportunity to speak at the meeting. He noted that the Department's primary focus was on improving under performing schools. He then shared information on the federal grants Virginia had been recently awarded.

The first grant is *Now is the Time Project Aware* from the U.S. Department of Health and Human Services-Substance Abuse Mental Health Service Agency (SAMHSA). The second grant is the *School Climate Transformation (SCT)* from the U.S. Department of Education-Office of Elementary and Secondary Education and Office of Safe and Healthy Students. Combined, these grants total over \$13 million during the next five years.

Dr. Staples then described the function of each grant. The *Now is the Time Project Aware* grant serves to support the positive intervention in disciplinary actions involving students. Grant money will be used to train school officials and educators, using a train-the-trainer model, in the use of Positive Behavioral Interventions and Supports (PBIS). The premise of PBIS is to reduce negative punishments for undesirable student actions

by employing a model that focuses on greater understanding and reduction of disciplinary instances. If these intervention tactics prove to be effective, there could be a significant reduction in suspensions, expulsions, and other disciplinary actions. By the end of the five-year pilot program, Dr. Staples estimated that forty-eight school divisions would receive PBIS training.

The *Project Aware* grant serves to increase mental health service accessibility in the Commonwealth. He noted that mental health services are delivered in “silos” with little communication about care gaps or overlap in services. The purpose of this grant is to increase communication and cooperation between state agencies and school division/community partnerships and increase the ability of educators to identify mental health issues with the goal of increasing early intervention.

After Dr. Staples completed his presentation, he was asked about the sustainability of these programs after the five-year grant period. Dr. Staples said the “train-the-trainer” model is crucial to sustainability. Dr. Staples also spoke to the importance of implementing both grants in such a way to ensure that outcomes were efficacious. Delegate Peace thanked Dr. Staples for presenting this information to the Commission.

### **III. 2014 Legislative Studies – Decision Matrix**

Delegate Peace stated that the members would be voting on the decision matrix. After the presentation on the Study of Unlawful Adoption of a Child, the Commission will receive public comment. After public comment, the Commission members will vote. Delegate Peace reminded the members that at the October meeting, public comment was received on Early Childhood Education and the Use of Restraint and Seclusion in Schools; therefore, public comment will not be received on these studies.

*The draft recommendations, along with the public comment considered by the Commission, can be accessed on the [November 17<sup>th</sup> decision matrix](#). The adopted recommendations can also be viewed on the [Adopted Decision Matrix](#).*

#### **Study – Unlawful Adoption of a Child**

Mr. Will Egen gave a brief overview of the findings and recommendations contained in the decision matrix. He reviewed the five recommendations that were associated with Finding 1, which emphasized the need for preventive services. Public comment was then received. Ms. Amy Woolard from Voices for Virginia Children spoke in support of the proposed recommendations.

Delegate Peace noted that Virginia ranks last for making permanent connections for youth aging out of foster care. It is appropriate that these study recommendations be considered at this meeting because November is Foster Care Awareness Month.

Senator Favola stated that at the Commission’s last meeting, a motion had passed that a letter be drafted to the Governor asking that funding be included in the Governor’s budget to increase in the allowable age for children to receive benefits through the foster care system to twenty-one. This would enable the Commonwealth to access over \$8 million in federal funds and Delegate Peace stated that this would now be taken up as part of the study recommendations. He stated it was his belief that this was reflected as Recommendation 5.

Delegate Keam moved that the Commission accept Recommendations 1 through 5 in a block. Senator Favola seconded this motion. The Commission adopted Recommendations 1 through 5.

The Recommendations adopted by the Commission are listed below.

1. Amend the Code of Virginia to require the State Registrar to furnish a document, to be compiled and annually reviewed by the Virginia Department of Social Services listing post-adoptive services available to all adoptive families simultaneous to when any new birth certificate is issued due to adoption. Also, make this information available on the Department's website.
2. Request the Virginia Department of Social Services, with the support of the Office of Comprehensive Services for At-Risk Youth and Families, to allow regional requests for proposals rather than statewide requests for proposals for post-adoptive services.
3. Support the current funding level for post-adoptive services.
4. Request the Virginia Department of Social Services, with the support of the Office of Comprehensive Services for At-Risk Youth and Families, to review existing policies and practices related to early prevention services. A report will be submitted to the Commission on Youth prior to the 2016 General Assembly Session.
5. Request the Governor to ensure there is adequate funding in the 2014-2016 Appropriations Act to fully implement the provisions of the federal Fostering Connections to Success and Increasing Adoptions Act of 2008, which would extend foster care and adoption assistance until the age of 21. Doing so would allow the Commonwealth to draw down partial federal reimbursement for support of young adults in the 19 to 21 age group.

### **Early Childhood Education-Workshop on Quality**

Ms. Leah Mills gave a brief overview of the findings and proposed recommendations. She noted that public comment was received and shared at the Commission's October 20<sup>th</sup> meeting.

Ms. Mills stated that Finding 1 emerged due to lack of coordination between early childhood care programs. For the most part, funding goes through silos with little to no transference/communication between agencies. Ms. Mills stated that staff would recommend the members refer to Finding 2 because the recommendations therein may more appropriately address this issue.

The Commission considered the recommendations associated with Finding 2. Ms. Mills noted that staff had included some technical revisions to these recommendations which emerged during the public comment process. Ms. Mills noted the revisions were included on the decision matrix as 1a and 1b. Recommendation 1a would be a budget amendment and Recommendation 1b would be a letter to the Virginia Department of Social Services and the Virginia Board of Education. After considering the proposed recommendations associated with Finding 2, Senator Favola proposed two amendments to Recommendation 1a and 1b. The first amendment was to have the workgroup also formulate a plan to require licensure for all childcare providers in the Commonwealth.

The second amendment was for the workgroup to ensure that Virginia meets all federal regulations in terms of subsidized childcare.

Senator Martin voiced concerns over the prospect of requiring licensure for all childcare programs without further study. He also stated that it did not seem to be appropriate to select a private-sector organization to facilitate the workgroup. Senator Favola referred to a recent survey that showed most parents believed child caregivers had been trained. Senator Martin stated he was also concerned with requirements that added additional tasks to the Department of Education.

Delegate Keam asked why a budget amendment was suggested to accomplish this finding. Ms. Mills stated that this recommendation was modeled after a successful workgroup that was convened by the Department of Behavioral Health and Developmental Services. However, a letter could certainly be used to convey the wishes of the Commission.

Delegate Bell offered support for Recommendation 1b. Delegate Farrell suggested a change to Senator Favola's second amendment changing the language from "shall achieve" to "shall study" and that they would receive a final report by the beginning the 2016 General Assembly Session.

Delegate Keam moved and Senator Favola seconded the motion for the Commission to adopt Recommendation 1b with the aforementioned amendment from Delegate Farrell. The members agreed that the provisions from Recommendations 2, 3, 4, and 5 be incorporated into Recommendation 1b as tasks the workgroup would examine.

Finding 3 addressed improving access to the Virginia Preschool Initiative. Ms. Mills outlined the possible recommendations for the members and the members then discussed the possible options. Ms. Mills noted that staff had included some technical revisions to Recommendation 2 and Recommendation 3 which emerged during the public comment process. She noted Recommendations 1, 2, and 3 were mutually exclusive. Senator Favola offered her support for Recommendation 1, but wanted language from Recommendation 3 to be included. However, this was not to include the Board of Education language. Delegate Bell offered his support for Recommendation 2 without the proposed revision and moved that the Commission adopt the original Recommendation 2. Senator Martin seconded the motion. Recommendation 2 was adopted with Delegate Keam and Senator Favola voting against the motion.

Ms. Mills noted that much progress has already taken place in accomplishing the issues identified in Finding 4. Recommendation 1 was a letter from the Commission supporting these efforts. Senator Martin moved that this Recommendation be adopted. Delegate Peace stated that, without objection, the Commission would write a letter of support for Finding 4.

Ms. Mills stated that the issue identified in Finding 5 was originally discussed at the Workgroup on Early Childhood Education that was held in June. The Recommendation took the form of letters regarding the lack of high-quality early childhood programs for geographically dispersed reserve and active-duty families. The Commission adopted this Recommendation by consensus.

Finding 6 was identified during the public comment process. The Commission adopted Recommendation 1 by a consensus vote to request a presentation on the Virginia Kindergarten Readiness Project (VKRP).

The Recommendations adopted by the Commission are listed below.

1. Request the Board of Education partner with the Virginia Department of Social Services and the Virginia Early Childhood Foundation (VECF) to convene an interagency, cross-sector workgroup to be facilitated by the VECF. The workgroup shall develop a competency-based professional development framework to inform the requirements and guidelines for pre-service education, in-service education, and training for early learning practitioners in all of Virginia's early learning settings. In developing the framework, the workgroup will review:
  - Professional support and in-service training proven to promote gains in children's social and academic development;
  - *Virginia's Quality Indicators for Responsive Teaching; Creating a High Quality Learning Environment* to ensure that teacher-child interactions and social/instructional supports are included as core competencies;
  - Efforts to build capacity with private partners that emphasize hiring teachers with such training; and
  - Revisions to Virginia's Star Quality Standards which emphasize elements that demonstrate success including teacher preparation/professional development versus structural and/or physical plan components.

A task of the workgroup will also be to consider a child care system where all providers, including home-based providers, obtain a child care license. In addition, the workgroup shall ensure that Virginia meets all federal child care regulations. The workgroup shall make a final report on its activities to the Virginia Commission on Youth prior to the 2016 General Assembly Session.

*Commission staff will update the Commission at the December 2 meeting on whether additional resources are necessary to accomplish this Recommendation.*

2. Request the Joint Legislative Audit and Review Commission follow up on the previous study of the Virginia Preschool Initiative (VPI), review the funding formula and cost-per-child for VPI, and make recommendations to address barriers to access such as local match and facility space to achieve a balance between program quality and easing access for children in all regions across the Commonwealth.
3. Support the Virginia Department of Social Services and the Virginia Early Childhood Foundation's efforts to map all of the quality ratings for the participating early care programs across the state. Such mapping may help show regional gaps and help communicate the benefits of licensure to providers.
4. Request the Secretary of Veterans and Defense Affairs and the Secretary of Public Safety include access to high-quality early childhood education for Virginia's military families in all efforts seeking to improve services and programs for Virginia's military families.
5. Request the Secretary of Education, the Virginia Early Childhood Foundation, and E3 present to the Virginia Commission on Youth the findings Virginia's Kindergarten Readiness Project.

### **Study on the Use of Restraint and Seclusion by Schools**

Ms. Mills outlined the Commission's findings and recommendations for the members and discussion ensued. Recommendation 1 for Finding 1 was approved unanimously, with Senator Favola moving the Recommendation and Citizen Member Slemp seconding the motion. Recommendation 1 for Finding 1 was adopted unanimously.

Ms. Mills then reviewed Finding 2 and the Recommendations accompanying this Finding. Ms. Mills informed the Commission that staff had revised Recommendation 1 based on public comment and stakeholder interviews to address concerns expressed by school officials. Mr. Slemp asked Ms. Mills if the revision to Recommendation 1 had alleviated concerns. Ms. Mills responded that she believed there was still concern about promulgating regulations. She stated that parents and advocacy groups favored Recommendation 1 and school representatives favored Recommendation 3.

Senator Martin made a motion to accept Recommendation 3 because it offered school divisions some flexibility while requiring the divisions to adopt policies. Senator Martin stated this flexibility is crucial because school divisions are very diverse. There was no second. Delegate Bell moved for the acceptance of Recommendation 1 which Senator Favola seconded. Recommendation 1 was approved and Delegate Bell spoke to why he supported Recommendation 1. Senator Martin asked Delegate Bell whether he believed issues could arise in requiring uniformity. Delegate Bell stated that too much flexibility can be a bad thing and that a statewide standard is needed. Recommendation 1 was adopted with no opposition.

Findings 3 and 4 addressed training. Ms. Mills noted that both these Recommendations were letters to impacted agencies. Senator Favola moved that Recommendation 1 for Finding 3 and 4 be adopted. The Commission adopted the Recommendations by consensus.

The Recommendations adopted by the Commission are listed below.

1. Request that the Governor finalize Virginia's Proposed Regulations Governing the Operation of Private Day Schools for Students with Disabilities.
2. Introduce legislation requiring the Virginia Board of Education to promulgate regulations on the use of seclusion and restraint in Virginia's public schools. These regulations will incorporate the 2009 Department of Education Guidelines and the U.S. Department of Education's 15 Principles on Seclusion & Restraint and address definitions, criteria for use, restrictions for use, training, notification requirements, reporting, and follow-up. The regulations will also address the diverse population of students in the public school setting including students in the general education and special education populations and distinctions between primary and secondary schools including the students' emotional and physical developmental differences.
3. Support the Department of Criminal Justice Services efforts in training appropriate parties, including School Resource Officers and School Security Officers, in student development, de-escalation, and conflict mediation in the school setting.
4. Request the Virginia Department of Education support local school divisions by providing resources and training on research-based appropriate behavioral

management, prevention, de-escalation techniques to reduce the use of seclusion and restraint.

#### **IV. Court Appointed Attorneys in Child Welfare Cases**

*Will Egen, Legal Policy Analyst*

*Lelia Baum Hopper, Director*

*Court Improvement Program, Office of the Executive Secretary*

*Supreme Court of Virginia*

Delegate Peace stated that the Commission had received a letter from Senator Barker requesting the Commission study court appointed attorneys in child welfare cases. Mr. Egen will present the draft findings and recommendations from this study and Ms. Lelia Hopper will give the Commission an overview of the court process. After the meeting, the Commission will be accepting written public comment on these findings through Friday, November 28<sup>th</sup>.

Mr. Egen stated that the Commission reviewed Virginia's existing system for providing counsel to parents in child welfare cases to ascertain whether modifications or improvements to this system would advance Virginia's efforts to improve child welfare outcomes such as increased permanency rates. Mr. Egen stated that the Commission had conducted site visits and stakeholder interviews, conducted literature reviews, reviewed federal legislation/statutes, identified concerns, and solicited feedback to include possible problems with the system and possible solutions. Mr. Egen stated that Virginia ranks at the bottom of states in the percentage of youth who age out of foster care and in average waiting time (16.4 months) between termination of parental rights and finalization of adoption. There is an ongoing challenge with establishing permanency for foster care children within 24 months. He used examples of successful programs used from other states. Mr. Egen then turned the presentation over to Lelia Baum Hopper, Director of the Court Improvement Program within the Office of the Secretary Supreme Court of Virginia.

Ms. Hopper informed the Commission that the primary issue is that court-appointed attorneys are grossly underpaid for the work they complete. Virginia's court-appointed counsel receive \$120 per child or appealable case in District Court and \$158 per child or appealable case in Circuit Court. She shared Virginia's resource, *A Handbook for Parents and Guardians in Child Dependency Cases*. This handbook seeks to educate parents on the processes and procedures of the court to lessen the amount of information a court appointed attorney has to disseminate. After outlining the process in which court appointed attorneys operate in such cases, Lelia Baum Hopper then turned the presentation back to Mr. Egen.

Mr. Slemp asked Mr. Egen about requiring specialized training without additional compensation. Senator Favola asked whether fees for Guardians ad Litem were funded through a statewide appropriation and, if so, whether the recommendations would have a fiscal impact. Mr. Egen stated yes. The Commission discussed the steps of child welfare cases and when a fee waiver may be most appropriate and beneficial.

In closing, Mr. Egen outlined the identified Findings and Recommendations and stated public comment will be received on this study until Friday, November 28, 2014 at 5:00 p.m. The proposed Findings and Recommendations are listed below.

[Draft Finding and Recommendation – Need for Improved Compensation Structure](#)

1. Remove the statutory cap on fees for court-appointed counsel for parents in child welfare cases, and instead allow for the same hourly rate payment structure as Guardian Ad Litem are compensated.

- or -

2. Allow court-appointed counsel for parents in child welfare cases to submit a waiver application for additional compensation above the current cap in termination of parental rights cases.

*Potential revision to Recommendation 2 based on public comment:*

*Allow court-appointed counsel for parents in child welfare cases to submit a waiver application for additional compensation above the current cap for all stages of a child dependency case.*

## **V. Virginia's Comprehensive Services Act for At-Risk Youth and Families**

*Susan Cumbia Clare, Director*

*Virginia Office of Comprehensive Services*

Delegate Peace noted that Susan Clare with the Office of Comprehensive Services for At-Risk Youth and Families. Delegate Peace stated that the Commission's presentation on the Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities would be postponed and heard at the December meeting.

Ms. Clare thanked the Commission for the opportunity to share her presentation with them. She proceeded to give an overview of the services provided by the Comprehensive Services Act (CSA) and the general purpose of the Act. Ms. Clare stated that CSA was modeled after Systems of Care. The overarching theme of the presentation was all children who are at risk deserve access to a coordinated array of critical services to produce the best possible outcomes. CSA allows for collaboration and cooperation among agencies that would otherwise be impossible within the original parameters of the individual agencies. Ms. Clare also noted the importance of the family and individual child. There is no blanket service to respond to all the needs of children. Cases need to be reviewed on an individual basis to ensure optimal care.

Ms. Clare then discussed that State Executive Council's Retreat and the four strategic planning initiatives that emerged from the annual retreat. Delegate Peace thanked Ms. Clare for her time and said the Commission truly appreciated taking time out of her schedule to present to the Commission. Delegate Peace then informed everyone that the next Commission on Youth meeting is scheduled for December 2, 2014 at 1:00 p.m. in House Room C.

The meeting adjourned at approximately 12:40.