

## REVIEW OF VIRGINIA'S SPECIAL EDUCATION DISPUTE RESOLUTION SYSTEM

### DRAFT STUDY PLAN

#### Study Mandate

- The General Assembly and the Governor approved Senate Bill 220 (Favola) and House Bill 1089 (Coyner) introduced during the 2024 Session. The legislation's tenth enactment clause directs:
  - That the Virginia Commission on Youth (the Commission) shall study and make recommendations on Virginia's special education dispute resolution system. In conducting such study, the Commission shall (i) consider the entire special education dispute resolution system in the Commonwealth, including the parent ombudsman for special education, mediation, complaints, and due process; (ii) review the effectiveness of such system in responding to the concerns of parents, analyze such system in comparison to best practices from other states, and make actionable recommendations for improvement, including regulatory, statutory, staffing, and budgetary modifications; and (iii) specifically review and make recommendations to improve the Department of Education's system for collecting, tracking, analyzing, and publicly reporting data on parent interactions with such system and the outcomes of such interactions. The Commission shall report its findings and recommendations to the General Assembly no later than November 1, 2025.

#### Identified Issues

- In 2020, the Joint Legislative Audit and Review Commission (JLARC) conducted a study on *K-12 Special Education in Virginia*. The report made 27 recommendations, including three specific recommendations on complaint investigations.
- In its report, JLARC found that the Virginia Department of Education (VDOE) does not require school divisions to carry out corrective actions that fully and appropriately remedy specific instances of school non-compliance. Instead, JLARC found that VDOE would direct school divisions to hold IEP team meetings to discuss any compensatory service needs and submit that evidence to VDOE of having done so.
- Other concerns noted in JLARC's report included, i) VDOE's lack of a formal process to address non-compliance found during state complaint investigations that is not specifically alleged by the complainant or that falls outside of the one-year statute of limitations, and ii) Insufficient information available to parents about state-level dispute resolutions options.
- VDOE is required by federal law under the Individuals with Disabilities Education Act (IDEA) to investigate allegations of local non-compliance with laws and regulations that govern special education. The Office of Dispute Resolution and Administrative Services (ODRAS) at VDOE is responsible for handling all special education complaints.
- Recently VDOE has been working with the U.S. Department of Education Office of Special Education Programs (OSEP) in response to complaints of noncompliance with the IDEA. On March 28, 2024, the State Board of Education updated Virginia's regulations on due process.

- Parents have four main avenues for resolving disputes or addressing issues with local school divisions: complaints, mediations, State Parent Ombudsman, and due process hearings. Unlike the state complaint process, VDOE does not directly conduct mediation or due process hearings.
- Virginia’s State Parent Ombudsman for Special Education is described by VDOE, as a neutral party to “advocate for a fair process and provide confidential, informal assistance and support to parents, guardians, advocates, educators, and students with disabilities.” Because of a new law, starting in July 2024, the Ombudsman will begin receiving data on questions and concerns raised by parents at the eight regional special education family support centers.
- As of 2020, VDOE handled between 121 and 160 complaints per year over the preceding decade and received an average of 181 due process hearings and mediation requests each year from 2013-2018.
- An outside report requested by VDOE in 2023 highlighted the fact that parents were dissatisfied with the perceived partiality of special education due process hearing officers who, they believe, rule disproportionately in favor of divisions. This report also shared that that parents believe that hearing officers are not adequately trained, that they may be intimidated by division attorneys, and that many hearing officers are not objective.
- Between school years 2010-11 and 2019-20, parents have fully prevailed or partially prevailed in only 17 percent of fully adjudicated due process hearings. Mediations are more likely to result in an agreement, with an average annual success rate between 70 and 78 percent.

### **Study Activities**

- Provide an overview of Virginia’s special education dispute resolution system.
- Hold listening sessions throughout Virginia to hear concerns from parents regarding the state’s special education dispute resolution system.
- Present at State Special Education Advisory Committee (SSEAC).
- Convene an Advisory Group of relevant stakeholders.
- Research state and federal laws and regulations on special education dispute resolution.
- Review recent U.S. Department of Education OSEP reports concerning and communications with Virginia.
- Gather and review VDOE’s system for collecting, tracking, analyzing, and publicly reporting data on parent interactions with the state’s special education dispute resolution system.
- Research and evaluate best practices from other states.
- Develop findings and recommendations.
- Present findings and recommendations to the Commission on Youth.
- Receive public comment.
- Prepare final report.