



COMMONWEALTH OF VIRGINIA

Commission on Youth



Review of Virginia's Special Education Dispute Resolution System



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2024 Special Education Legislation



The General Assembly passed Senate Bill 220 (Favola) and House Bill 1089 (Coyner) related to special education.

- Establishes 8 Special Education Family Support Centers.
 - Funds \$1.1 million for Parent Educational Advocacy Training Center (PEATC) to staff 8 regional positions.
- Changes the IEP template to make it more consistent and functional.
- Includes professional development training for everyone involved in an IEP meeting.
- Forms an advisory committee to develop and implement a system for gathering public input on the implementation of this new law.

2024 Special Education Legislation (continued)



- Directs the Commission on Youth to:
 - i. consider the entire special education dispute resolution system in the Commonwealth;
 - ii. review the effectiveness of such systems in responding to the concerns of parents, analyze such system in comparison to best practices from other states, and make actionable recommendations for improvement; 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 systems and the outcomes of such interactions.

2024 Study Activities – Year 1



- Adopted a study plan on May 21, 2024.
- Partnered with the Parent Education Advocacy Training Center (PEATC), hosted 5 regional listening sessions.
- Hired a special education consultant to review Virginia's Dispute Resolution System.
- Held an Advisory Group meeting on Sept. 18, 2024.
 - Update on 2024 Legislation from Department of Education and PEATC
 - Roundtable Discussion
- Updated Commission on study progress at the October 22 meeting.



■ Held two Advisory Group Meetings

May 5, 2025

- What is the one thing in dispute resolution that would make the system better for all families?
- Where do I see the most alignment among stakeholders for reform and the most disagreement?

July 7, 2025

- Presentation of consultant's draft recommendations
- Development of Advisory Group recommendations



Purpose of the Individuals with Disabilities Act (IDEA)

- Ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living;
- Ensure that the rights of children with disabilities and their parents are protected;
- Assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities; and
- Assess and ensure the effectiveness of efforts to educate children with disabilities.



Virginia's Dispute Resolution System

- State Complaints
- Facilitated IEPs
- Special Education Mediation
- Special Education Due Process Hearings
- State Parent Ombudsman for Special Education



State Complaints

- Generally an expression of some disagreement with a procedure or a process regarding special education programs, procedures or services. A formal complaint is considered a request that VDOE investigate an alleged violation of a right of a parent and/or child with disabilities who is eligible, or believed to be eligible, for certain services based on federal and state laws and regulations governing special education.
- Can be filed by anyone. VDOE is required to determine whether the school division complied with special education laws and regulation. If the school is found to be wrong, VDOE will notify the parent and school in writing and tell the school how it must fix the problem.



Facilitated IEPs

- A voluntary process that may be requested when the IEP team agrees that the presence of a neutral third party would assist in facilitation communication and problem solving.

The Facilitator

- Substantively neutral and impartial;
- Well-versed in the requirements of the IEP process;
- An advocate for a fair IEP process; and
- A person who models effective communication and listening techniques.



Special Education Mediation

- Assistance to convene and conduct a meeting to clarify issues, focus on the needs of a child, and to explore and evaluate possible solutions in a confidential setting.
- A neutral, impartial, trained mediator may be sought voluntarily by parents and school staff to assist in their negotiations with each other. Mediators help people to hear and understand each other and to work jointly to find solutions to difficult issues in special education.
- Mediators do not take the role of anyone's advocate, but support and assist everyone in the negotiation process.



Special Education Due Process Hearings

- An impartial procedure used to resolve disagreements over issues related to special education services that arise between a parent and a school division. The right of the parents or the school division to request a due process hearing is guaranteed by federal and state laws governing the education of children with disabilities.
- A process wherein a party alleges an issue relating to the identification, evaluation, or education of a child, or the provision of a free appropriate public education (FAPE) for the child. Due process hearings are likely to involve disputes between the parent and the local school division over the appropriateness or nature of the student's program or services.



State Parent Ombudsman for Special Education

- Serve as a source of information and referral regarding state and federal laws and regulations governing special education.
- Provide information and support to parents of students with disabilities to help them understand and navigate the process.
- Provide communication strategies to parents and school divisions for resolving disagreements and special education issues.
- Assist parents in developing strategies and informal options.
- Promote collaboration and positive communication between parents and school division personnel.
- Provide information and resources on available options for dispute resolution.
- Serve as a resource for disability related information and referrals to available programs and services for individuals with disabilities.
- Identify, track, monitor, and report on suspected systemic patterns of concerns that emerge from constituent contacts regarding special education services in local school divisions to aid in addressing noncompliance.



Draft Recommendations

**Universal Awareness & Training on
the Tiered Dispute Resolution Process**





Recommendation 1: The Virginia Department of Education (VDOE) should provide awareness and training for the formal dispute resolution options. Develop consistent training on laws, processes, systemic & structural biases, neutrality, and the family perspective. Provide step-by step expectations for what happens when parties agree or disagree. Develop and provide easy-to-read resources, self-help materials and tools for all parties to help families and school staff understand the dispute resolution process in a tangible way. Ensure that training and awareness materials are developed with input by independent subject-matter experts whose professional experience and backgrounds reflect a range of racial, cultural, and historically marginalized perspectives. (cont.)



Recommendation 1 (cont.):

VDOE should provide early conflict resolution training to school staff, and when appropriate, lay advocates and parents to improve communication and collaborative problem-solving. As part of this:

- Encourage school divisions, advocates, and parents to participate in structured early conflict resolution and communication training, ideally aligned with existing efforts by VDOE and PEATC through the CADRE project.
- Focus on de-escalation strategies, trauma-informed practices, and effective family engagement.
- Provide voluntary training to lay advocates on the dispute resolution system, early conflict resolution, and effective communication strategies.



Recommendation 2: VDOE should expand multilingual parent education and dispute resolution navigation tools. Create a mobile-friendly webpage offering plain-language descriptions of dispute options, video explainers and real-world scenarios, interactive guidance based on the nature of the concern. VDOE should leverage PEATC and other neutral third-party partners to provide coaching and support to families throughout the dispute process, both before and during the process. Require local education agencies to provide this information on their websites.



Draft Recommendations

State Complaints





Recommendation 3: VDOE should strengthen oversight of school division implementation of Corrective Action Plans (CAP) through increased documentation requirements and quarterly monitoring for one year after a CAP or other remedy is mandated. VDOE should conduct random oversight of school divisions specific to dispute resolution to ensure consistent implementation of timelines, roles, forms, and procedures.



Recommendation 4: VDOE should consult a neutral independent expert to conduct mandatory initial and ongoing training for state complaint personnel involved in investigation of complaints and writing of Letters of Finding regarding the IDEA state complaint system and standard decision writing practices, including issue specification and applicable standards of law. The training must include the determination and statement of issues for a state complaint; the conduct of the investigation; and the writing of the Letters of Finding, including enforceable final corrective actions. Training should be followed by the availability of a minimum of two months of technical assistance from the trainer to the state complaint personnel from case assignment to case closure.



Recommendation 5: VDOE should collect, track/monitor, and publicly report the data on the enforcement of all Letters of Finding with ordered remedies, once enforceable final corrective actions are provided in the Letters of Finding.

Ensure public reporting of dispute resolution outcomes and corrective actions (excluding student identifiers) through the publication of an annual dashboard to include:

- Number and outcomes.
- Common issues (e.g., FAPE, placement, evaluations).
- Timelines of resolution.
- Patterns of repeat filings by division.



Draft Recommendations

Facilitated IEPs





Recommendation 6: VDOE should substantially restructure and enhance the state-supported system of trained, neutral qualified facilitators, independent from school divisions. Incorporate the use of facilitated IEP meetings into VDOE technical assistance materials, IEP procedural guides, and family dispute resolution resources. Explore adding facilitated IEPs as a recommended step in VDOE's procedural safeguards and guidance documents, aligned with IDEA's preferences for early resolution. VDOE should maintain a list of facilitators; provide guidance on when to offer a facilitator; how to request a facilitator; and the role of the facilitator.

In the restructuring of the IEP facilitation system, VDOE should utilize the intensive technical assistance from CADRE and receive input from independent subject-matter experts whose professional experience and backgrounds reflect a range of racial, cultural, and historically marginalized perspectives.



Recommendation 7: VDOE should collect, track, analyze, and publicly report data on the number of IEP facilitations conducted and the outcomes of each IEP facilitation meeting.

- Require divisions to document and report when facilitated IEP meetings are offered and used (similar to how mediation usage is reported under IDEA).
- Publish annual summary data that reports statewide and by division showing trends in requests, usage, outcomes, and geographic distribution of facilitated IEP meetings.
- Use data to identify divisions with underutilization and provide support to build capacity and awareness.



Recommendation 8: VDOE should consult with CADRE, PEATC, and other organizations with professional experience and backgrounds that reflect a range of racial, cultural, and historically marginalized perspectives on strategies to recruit qualified IEP facilitators.



Draft Recommendations

Special Education Mediation





Recommendation 9: VDOE should update the training process to ensure all mediators are trained using VDOE-approved materials aligned with IDEA and Virginia regulations.

Require mediators to complete specialized training in:

- Federal and State special education law and regulations.
- Student-centered decision-making to ensure that the mediation process is understandable, fair, and accessible to families.
- Mediation strategies that facilitate respectful, balanced participation for both parents and schools.
- Communication strategies that demonstrate clarity and encourage family engagement.
- IEP development.

As part of the training process, require ongoing professional development and recertification every 2-3 years for mediators.



Recommendation 10: VDOE should consider the addition of an independent neutral expert in laws and regulations relating to the provision of special education and effective mediation techniques to provide ongoing technical assistance to mediators, upon request.

Recommendation 11: The annual evaluation for mediators should be mandatory and conducted by an independent neutral expert. To assist, VDOE should develop a consumer-friendly process to promote the submission by parents of post-mediation consumer evaluations of the mediation system.

Recommendation 12: VDOE should provide multimedia approaches to share information about mediation and other alternative dispute resolution processes, including the use of social media, to ensure the information is visible in schools and communities.



Draft Recommendations

Special Education Due Process Hearings





Recommendation 13: VDOE should update its training process to ensure all due process hearing officers are trained using VDOE-approved materials aligned with IDEA and Virginia regulations. Require hearing officers to complete specialized training in:

- Federal and State special education law and regulations.
- Student-centered decision-making to ensure that the hearing process is understandable, fair, and accessible to families.
- Hearing strategies that facilitate respectful, balanced participation for both parents and schools.
- Communication strategies that demonstrate clarity and encourage family engagement.
- IEP development.

As part of the training process, require ongoing professional development and recertification every 2-3 years for hearing officers.



Recommendation 14: VDOE should promulgate regulations to require the hearing officer to conduct a prehearing conference in every case, as early as possible at the commencement of the 45-day hearing timeline in non-expedited cases and, as soon as possible in expedited cases. Revise regulations to include the minimum areas that must be addressed and determined at the prehearing conference, including the clarification of the issues to be heard and relief requested and determination of jurisdiction over the parties and the issues. The mandated pre-hearing conference shall not delay the due process timeline.



Recommendation 15: VDOE should reform the current due process hearing system to provide oversight by a knowledgeable and impartial individual/agency to:

- Supervise the hearing officers' implementation of standard and best legal practices at all stages of the hearing process, including prehearing, hearing, and decision/order writing;
- Create an evaluation system for measuring hearing officers' performance. VDOE should work with PEATC, other organizations with professional experience and backgrounds that reflect a range of racial, cultural, and historically marginalized perspectives, and school divisions to promote the submission by parents and school division personnel of post-hearing surveys of the hearing process; and
- Provide the hearing officers access to technical assistance on an ongoing basis.



Recommendation 16: VDOE or an impartial individual/agency should analyze annually and report data for fully adjudicated cases on the percentage of time parents or public agencies prevail in due process hearing and, separately, mixed/split decisions. Conduct anonymous parent/staff surveys about fairness, neutrality, and satisfaction. Data should track how disputes are addressed, resolved, or elevated to formal processes to identify trends and opportunities for systemic improvement. This information shall be made available to the public on VDOE's website.



Recommendation 17: VDOE should meet with relevant stakeholders including organizations with professional experience and backgrounds that reflect a range of racial, cultural, and historically marginalized perspectives to adopt an authorization/certification process for advocates including attorneys and non-attorneys that includes qualifications of knowledge, experience, and standards of professional responsibility/conduct. Any authorization process should be in regulations by January 1, 2027 to ensure uniform standards.



Recommendation 18: VDOE should consider whether the current qualifications to serve and be recertified as a special education hearing officer need to be augmented. If the current hearing system is maintained, all current and former applicant hearing officers should be required to reapply and, if selected, successfully complete the pre-service training.

Recommendation 19: VDOE should review the rates hearing officers receive for conducting proceedings for other Virginia agencies/entities that require specialized knowledge and training and consider increasing the rate for special education hearing officers.



Draft Recommendations

State Parent Ombudsman for Special Education





Recommendation 20: Amend the Code of Virginia and introduce a budget amendment to increase staffing and relocate the Parent Ombudsman for Special Education's office outside of VDOE to enhance its neutrality and public trust. Responsibilities would include one-on-one technical assistance for families and schools; monitoring systemic concerns; public reporting on trends and recommendations.



Recommendation 21: VDOE should conduct and implement the following awareness and resource initiatives and maintain such approaches:

- Develop and implement an initial promotional campaign at the school level in collaboration with PEATC, parent organizations, other organizations with professional experience and backgrounds that reflect a range of racial, cultural, and historically marginalized perspectives on effective strategies to get information to the users of the resources and maintain visibility.
- Develop or adopt parent-friendly resources on the VDOE Ombudsman website, such as brochures and videos, to supplement the one-page summaries.
- Supplement its multimedia offerings with additional parent and educator friendly resources on the development and utilization of early conflict resolution skills for both school personnel and parents.
- All materials and multimedia offerings should be ADA compliant, multilingual, and culturally responsive.



Dismissal of Certain Vexatious And Repetitive Complaints





- The General Assembly and the Governor approved House Bill 2606 (Ware) introduced during the 2025 Session. The legislation includes an uncodified act that permits the dismissal of certain vexatious and repetitive special education due process hearing complaints.
- This legislation states, as enacted, “If a special education due process hearing officer determines that a due process hearing complaint filed in accordance with subsection B of § 22.1-214 of the Code of Virginia contains substantively the same issues as a previously adjudicated due process hearing complaint and evidences a clear pattern of initiating vexatious and repetitive litigation, the hearing officer may dismiss the complaint.”
 - This legislation has a sunset date of July 1, 2027.
 - The legislation’s third enactment clause directs: That the Virginia Commission on Youth shall study and make recommendations on the provisions of the first enactment of this act.



- The intent of the legislation is to “permit the dismissal of certain vexatious and repetitive special education due process hearing complaints.”
- The Commission has not identified similar laws in other states, involving the dismissal of vexatious and repetitive special education due process complaints.
- Hearing officers already enjoy authority to dismiss cases based on claim or issue preclusion an argument that a party to a case will raise as an “affirmative defense”:
 - Issue preclusion (collateral estoppel): prevents any party from relitigating facts and *issues* that were previously litigated and decided even if the parties in a subsequent suit/hearing are unrelated.
 - Claim preclusion (res judicata): claim preclusion prohibits the relitigating all issues of a *claim* arising out of the same transaction or series of transactions in a subsequent lawsuit/hearing involving the same parties.



How the law works:

- The current law lists two elements a hearing officer shall consider when deciding whether the officer *may* dismiss a complaint:
 - (1) contains substantively the same issues as a previously adjudicated due process complaint and
 - (2) evidences a clear pattern of initiating vexatious and repetitive litigation.
- The absence of one of those elements would preclude the hearing officer from exercising discretion to dismiss pursuant to the new law.

Needs further addressing:

- The process for how the hearing officer determines the above elements.
- The type of record and factual findings that a hearing officer would need to make.



- The State Special Education Advisory Committee (SSEAC) is an advisory panel that advises the Virginia Department of Education and the Virginia Board of Education on the education needs of children with disabilities.
- Every state is required by IDEA to have such an Advisory Committee.
- Membership is composed of representatives of stakeholder groups as prescribed by IDEA, and a majority of the members must be individuals with a disability or parents of children with a disability eligible to receive services.
- The SSEAC has wide ranging functions that include the review of findings and decisions regarding due process procedures for parents and children.
- Has 5 standing committees including a policy and regulations subcommittee.
- The SSEAC prepares and submits an annual report and recommendations to the Virginia Board of Education.



Draft Recommendations

Dismissal of Certain Vexatious and Repetitive Complaints





Recommendation 22: Refer HB 2606 (Ware) to the State Special Education Advisory Committee (SSEAC) for further review and recommendations to the Virginia Department of Education and the Virginia Board of Education.



- The Commission will be accepting written public comment through October 15.
- Directions for submitting public comment are posted on the Commission's website (<https://vcoy.virginia.gov>).
- The Commission will receive in person public comment and vote on draft recommendations at the October 21 Commission meeting, at 1:00 p.m. at the General Assembly Building.