



## K–12 Special Education in Virginia

# Study mandate

- Review K–12 special education in Virginia, including:
  - student outcomes
  - special education eligibility determination
  - individualized education program (IEP) development
  - inclusion of students with disabilities
  - school divisions' special education staffing and expertise
  - Virginia Department of Education's (VDOE) monitoring and support

Commission resolution (October 2018)

# Primary research activities

- Analyzed a decade of student-level data
- Surveyed parents and local special education directors
- Reviewed students' IEPs
- Reviewed complaints submitted to VDOE by parents
- Interviewed key stakeholders in Virginia and other states
  - staff at VDOE, other state agencies, and USDOE
  - local special education directors and teachers
  - parents and caregivers
  - staff at Virginia colleges and universities, national experts

IEPs = Individualized Education Programs; USDOE = U.S. Department of Education

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## In brief

Graduation rates and test scores have improved among students with disabilities but remain much lower than students without disabilities.

IEPs are not consistently designed effectively.

School divisions are not consistently preparing students with disabilities for life after high school.

“Applied studies diploma” for students with disabilities does not support students’ access to future educational or career opportunities.

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## In brief (continued)

Many general education teachers and school administrators lack knowledge and skills to effectively support students with disabilities.

Longstanding shortage of special education teachers persists, and many school divisions rely on under-prepared teachers to fill gaps.

VDOE's handling of complaints against divisions does not ensure problems are resolved, and its monitoring is too limited to identify significant problems in special education.

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# In this presentation

## Background

SOL performance and graduation rates

Eligibility determination

IEP development

Transition planning and applied studies diploma

Inclusion of students with disabilities

Recruiting and retaining special education teachers

VDOE's supervision of Virginia's special education system

# Special education services should ensure students with disabilities receive an appropriate education

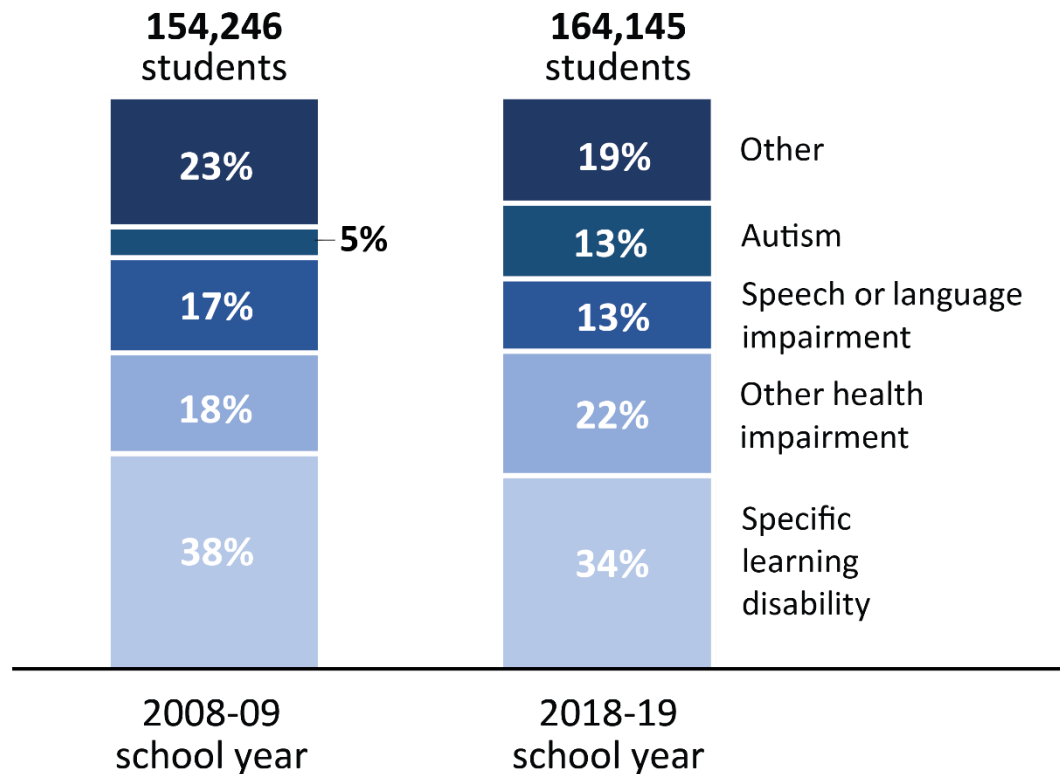
- Schools must provide any services and supports needed to enable students with disabilities to learn the material included in the general K–12 curriculum
- Individualized education program (IEP) designed for each student found eligible for special education
  - 2017 U.S. Supreme Court decision requires divisions set appropriately challenging goals for students with IEPs
- Special education teachers ensure students receive needed services and supports

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## Number of Virginia students enrolled in special education has increased slightly

- About 164,000 Virginia students are enrolled in K–12 special education
  - Represents 13 percent of Virginia’s K–12 student population, similar to national proportion
- Number of students enrolled in special education increased 5 percent between 2008–09 and 2018–19
  - Similar to enrollment growth of overall K–12 student population

# Proportion of students in special education with autism more than doubled over past decade

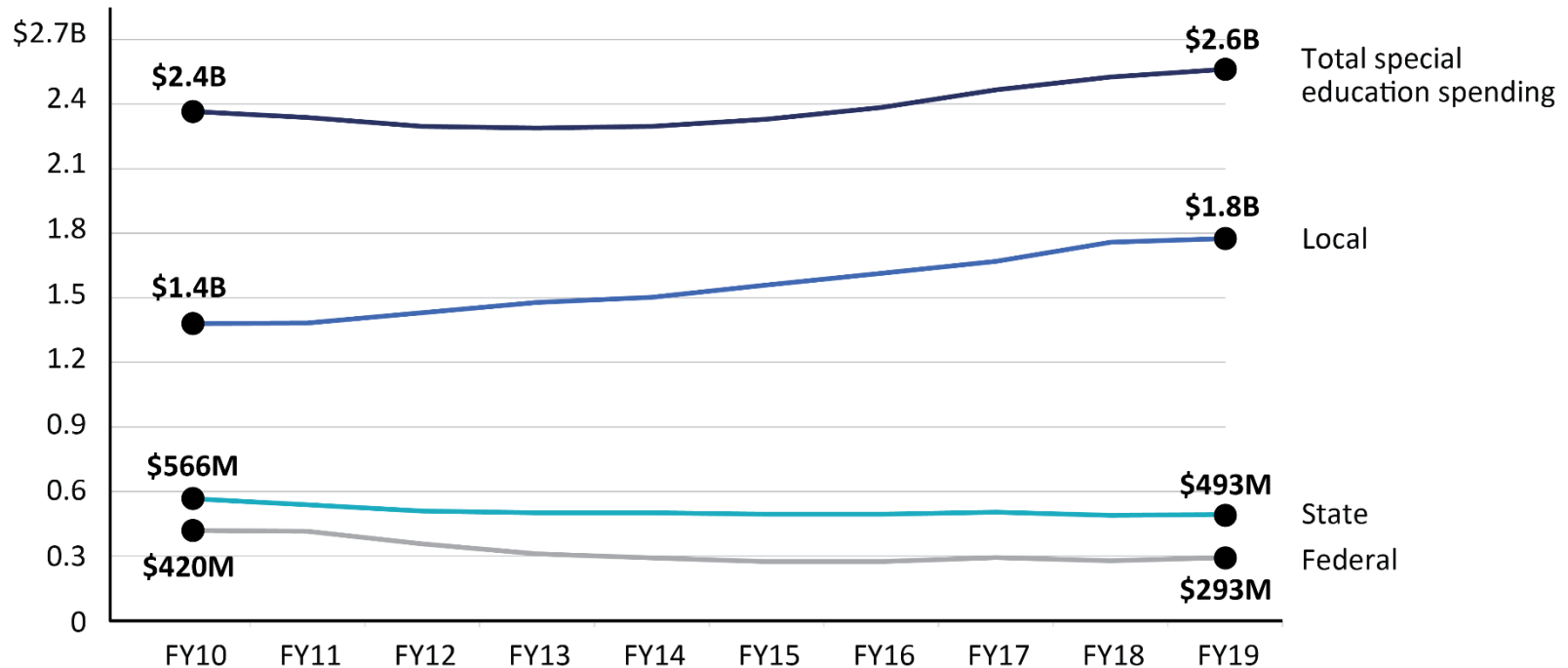


Note: Students' primary disability. "Other" includes deaf-blindness, deafness, developmental delay, emotional disability, hearing impairment, intellectual disability, multiple disabilities, orthopedic impairment, traumatic brain injury, and visual impairment.

# Most students enrolled in special education are instructed in the general education setting

- About 95 percent of students with disabilities in Virginia receive special education in the public school setting
- On average, Virginia students with disabilities spend 77 percent of their day in the general education setting
  - Students with more severe disabilities typically spend less time in general education setting
  - Time spent in general education setting increased slightly between 2008–09 and 2018–19

# Federal and state spending on special education has decreased, while local spending has increased



Note: Figures adjusted for inflation and do not include spending through the Children's Services Act on special education in private day schools.

## **VDOE responsible for supervising Virginia's special education system and ensuring compliance**

- VDOE is required to ensure divisions' special education services comply with federal/state laws and regulations
- 55 staff assigned to special education
  - finance and budgeting
  - eligibility and instructional support
  - dispute resolution services
  - monitoring, technical assistance, data analysis, and reporting
- Federal funds account for 99 percent of VDOE's central office funding for special education (\$11.1 million)

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# Almost all Virginia students with disabilities take SOL assessments

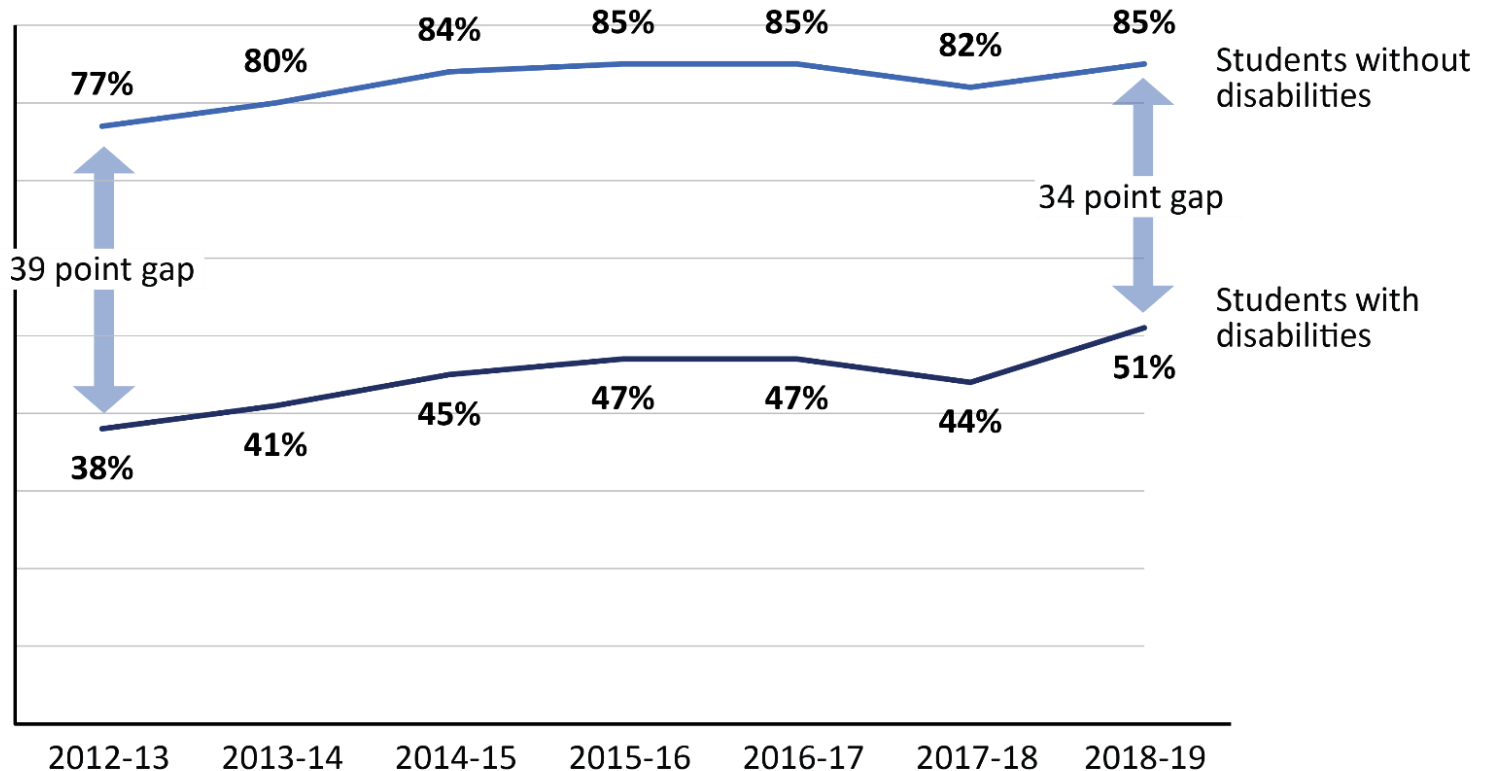
- Virginia's Standards of Learning (SOLs) establish statewide minimum expectations for students' knowledge and skills at the end of each grade or course
- About 99 percent of students with disabilities take statewide SOL assessments

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## Finding

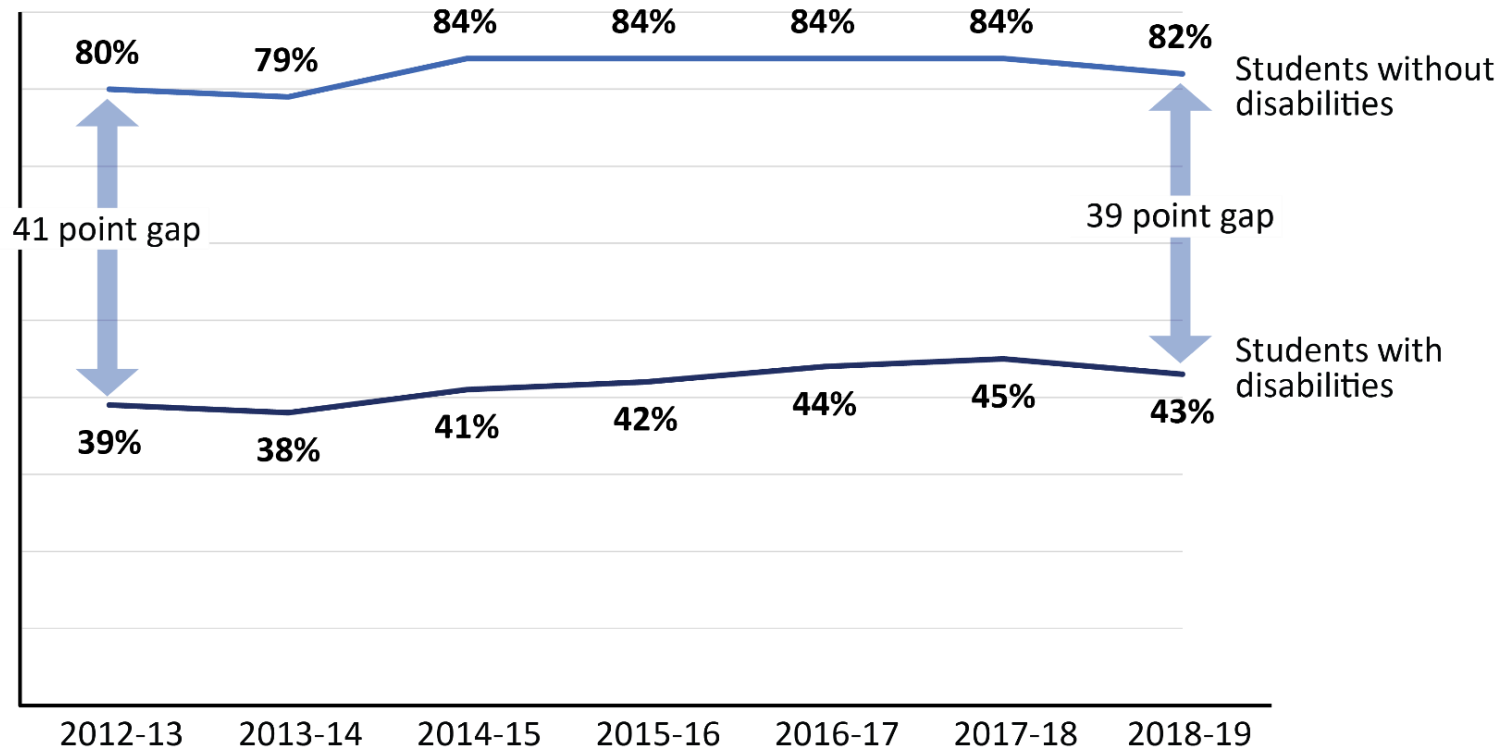
SOL pass rates among students with disabilities have improved but still lag pass rates among students without disabilities.

# Math SOL pass rates have increased, but increase partly due to 2018 change in assessment



Note: Math SOL pass rates based on student's most recent attempt. New math SOL was introduced in 2018-19, which contributed to statewide improvements for student with and without disabilities.

# Reading SOL pass rates have slightly increased for students with disabilities



Note: Reading SOL pass rates based on student's most recent attempt.

## Performance on SOL assessments varied across regions, disability types, and racial groups

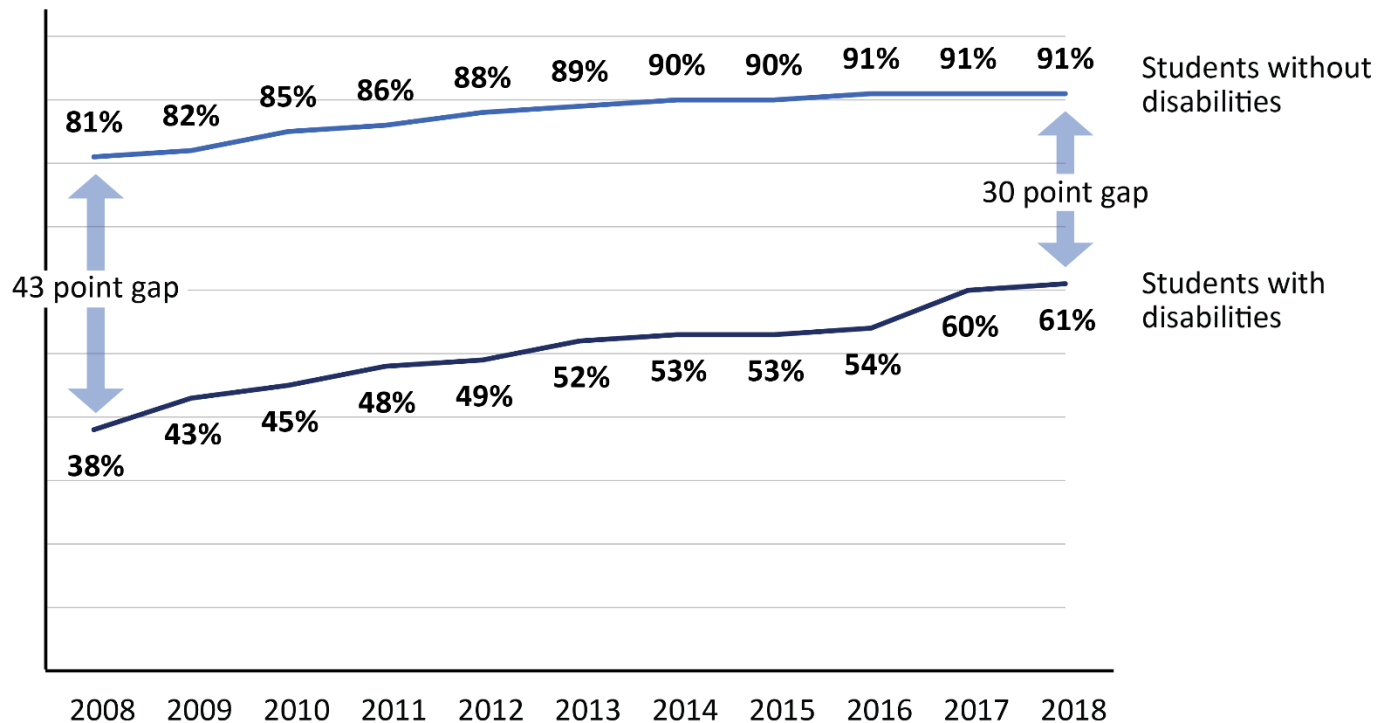
- Students living in VDOE Region 8 (Southern Virginia) were least likely to pass math and reading SOLs
- Black students with disabilities were least likely to pass math and reading SOLs each year since 2012–13 school year
  - Does not appear to be explained by differences in disabilities or poverty status

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## Finding

Graduation rates have improved among students with disabilities and are lowest for students who are Black or have more severe disabilities.

# Graduation rates for students with disabilities improved over last decade but gap remains



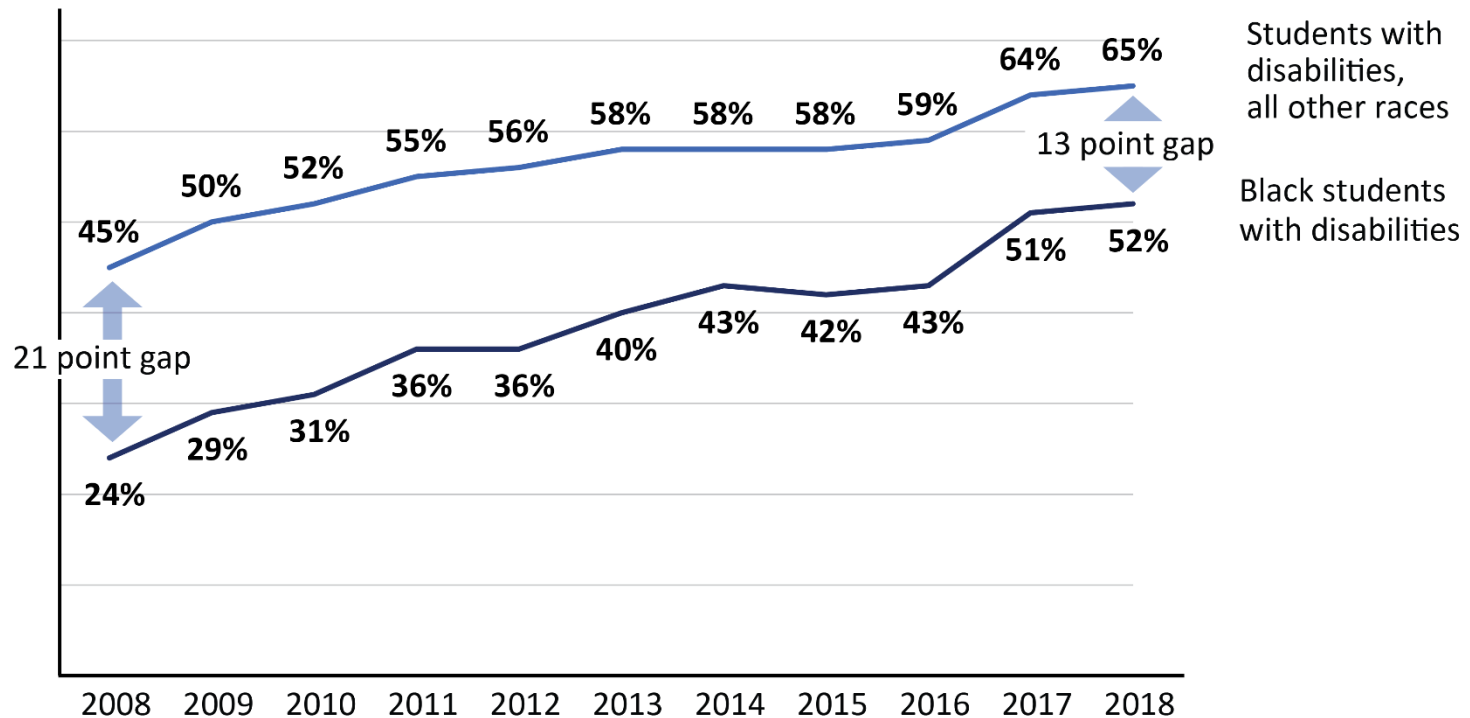
Note: Four-year graduation rates. Includes students with IDEA-qualifying disability at time of graduation who received at least a standard diploma. Addition of credit accommodations likely had some impact on graduation rates, beginning with students who graduated in 2017.

# Graduation rates varied across regions, disability types, and racial groups

- Students with disabilities living in VDOE Region 8 (Southern Virginia) were least likely to graduate
- Black students with disabilities were less likely to graduate than students with disabilities of other races, although gap has narrowed
  - Does not appear to be explained by differences in disabilities or poverty status

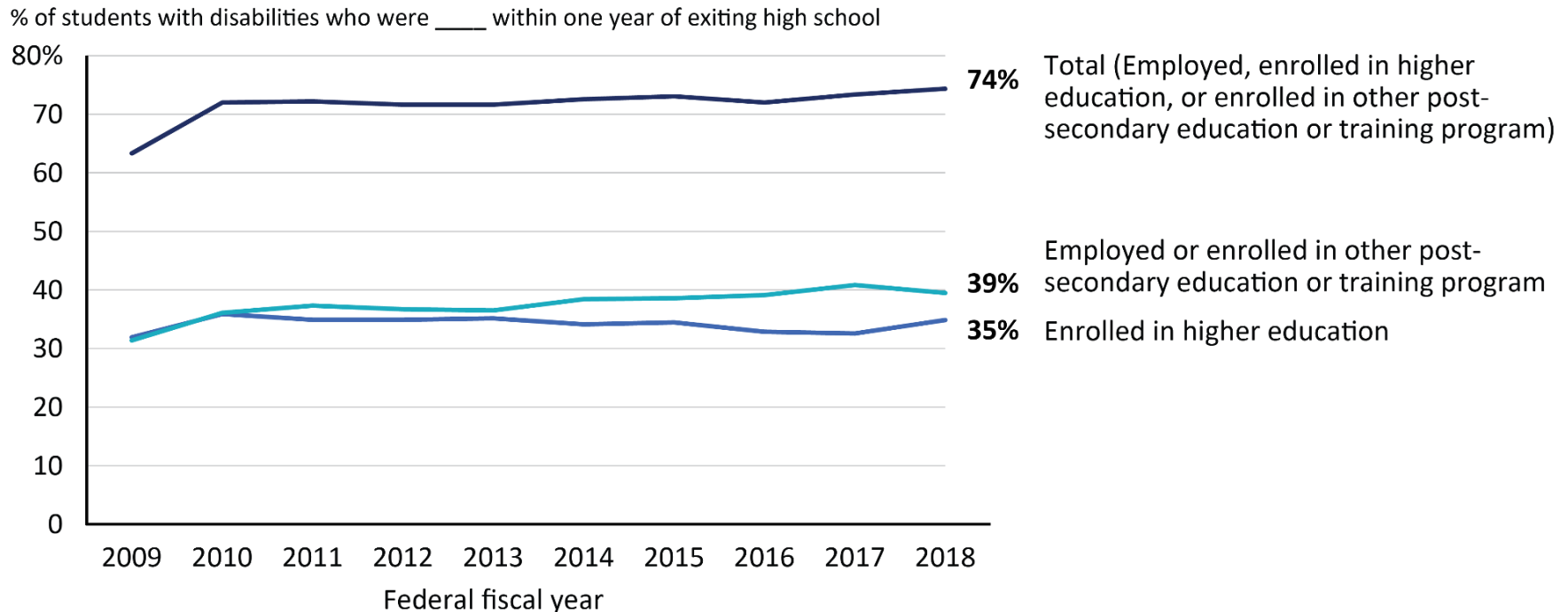
Note: Graduation rates include students who received at least a standard diploma. Students with disabilities may also receive an applied studies diploma, which has no established curriculum standards and is not recognized by the U.S. Department of Education as a high school diploma.

# Black students with disabilities graduate at lower rate than other students but gap has decreased



Note: Four-year graduation rates. Includes students with IDEA-qualifying disability at time of graduation who received at least a standard diploma.

# One year after high school, majority of students report employment or pursuit of further education



Note: The data presented was collected through a VDOE survey to individuals with disabilities who exited high school in previous year and had received special education services while in high school.

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# Eligibility for special education determined by school divisions

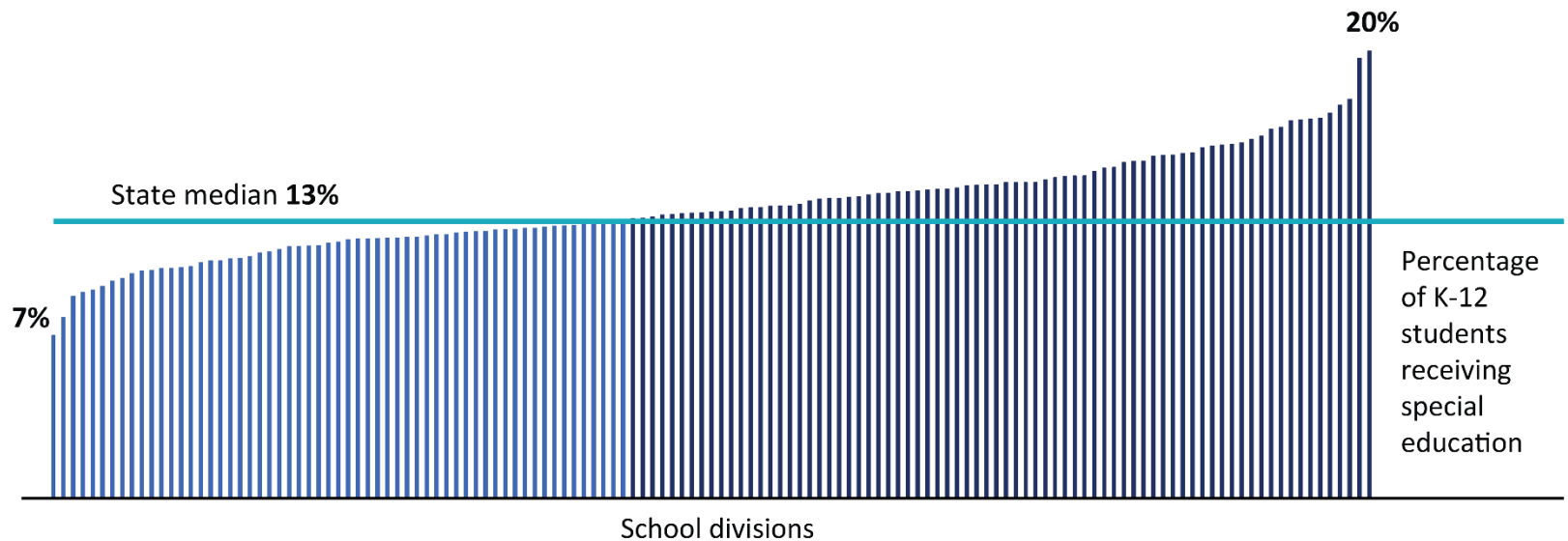
- Federal regulations define disability categories and criteria for special education eligibility
  - States may further define categories and criteria
- School divisions have considerable flexibility in determining students' eligibility for special education
- Inappropriate determinations can result in students
  - not receiving services they need, or
  - receiving services they do not need

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## Finding

Enrollment in special education varies across Virginia school divisions, both overall and by disability, and insufficient guidance and vague terms in the state's eligibility criteria likely contribute to this variation.

# Proportion of all K-12 students enrolled in special education varies across divisions



Note: Three-year average enrollment (2016-17, 2017-18, 2018-19).

## Proportion of students with certain disabilities in special education varies widely across divisions

- Some divisions have 2 to 3 times the proportion of students with certain disabilities than the statewide proportion
- Division variation is most pronounced for intellectual disabilities, emotional disabilities, speech/language impairments, and other health impairments
- Could indicate a division is over- or under-enrolling students because of problematic practices
- Eligibility criteria should be more clearly defined in regulations and explained by VDOE to reduce variation

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# Well-designed IEPs can help students with disabilities receive an appropriate education

- School divisions required to develop and regularly update a written individualized education program (IEP)
  - IEP sets plan to help students participate and progress in the curriculum provided to non-disabled peers
  - Divisions legally required to provide services in IEP
- IEPs developed by team
  - student's parents, special education teacher, general education teacher, and school administrator (others as needed)

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## At a minimum, IEPs should have certain key elements to be useful and effective

- IEPs need to be individualized and should articulate
  - Student's present level of performance and needs
  - Specific and measurable goals to address identified needs
  - Specific services and/or supports that will enable student to achieve goals
- All three are required by federal law and regulations, as well as state regulations, but are also best practice

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## Finding

IEPs in Virginia are not consistently designed to be effective and reliable guides for special education services.

# IEP quality varies across school divisions

- Variety of stakeholders expressed concerns about the inconsistent quality of IEPs
  - VDOE's on-site review reports validate these concerns
- Parents\* of students enrolled in special education services expressed concerns about their student's IEP
  - 23 percent believed their student's IEP was not sufficiently tailored to meet their student's needs
  - 37 percent believed the services in the IEP are only “somewhat” (25 percent) or “not at all” (12 percent) appropriate

\*Based on survey responses from 1,573 parents across 92 school divisions.

## JLARC reviews of sample of IEPs validated concerns expressed by stakeholders

- About one-third of IEPs reviewed lacked a description of the student's academic or functional needs, which is required by federal law
- About half of IEPs lacked goals for academic progress or improved functioning, which are required by federal law
- About 40 percent of IEPs lacked alignment across needs, goals, and services
  - For example, IEP included description of certain student needs but no goals or services to address these needs

\*Based on a JLARC review of 90 randomly selected IEPs

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## Finding

Variation in IEP quality appears to be due in part to insufficient knowledge among key school staff about IEPs and their roles in designing them.

# Additional guidance and training needed to improve IEP quality and compliance

- Key contributing factors to non-compliant IEPs include
  - Inexperienced special education teachers
  - Reliance on provisionally licensed special education teachers in some divisions
  - Lack of knowledge about IEP development among general education teachers and school administrators
- VDOE provides some guidance and training about IEPs, but additional guidance is needed
  - In survey, 57 percent of special education directors reported that additional guidance and training about IEPs would be helpful

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## Recommendation

The General Assembly may wish to consider amending the Code of Virginia to direct VDOE to develop a comprehensive and detailed training module for individuals participating in IEP meetings and require all IEP team members, with the exception of parents, to complete the training prior to participating in IEP process and at regular intervals thereafter.

VDOE should improve the training and guidance documents it provides to school divisions on the development of IEPs.

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## Parents commonly reported not having sufficient time to review IEPs before consenting to them

- Parents provide valuable insight into the strengths, weaknesses, and needs of their student
- IEPs drafted in advance of IEP meetings are not required to be shared with parents
- Lack of access to draft IEP hinders parental participation
- Other states require draft IEPs be shared in advance if drafts are developed by school staff

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## Recommendations

The General Assembly may wish to consider amending the Code of Virginia to require that school divisions provide a draft individualized education program (IEP) to parents no later than 2 business days prior to the scheduled IEP team meeting, if a draft IEP is developed in advance of the meeting.

## VDOE provides minimal monitoring of quality of IEPs

- Quality of IEPs generally assessed only if school division is subject to an on-site monitoring review, which currently occurs in about four (of 132) school divisions per year
- VDOE could readily improve its monitoring of the quality of IEPs by leveraging existing systems and processes
  - Already has access to all IEPs in 70 divisions
  - Already has structured IEP review process and rubric

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## Recommendation

General Assembly may wish to consider directing VDOE to

(i) conduct structured reviews of a sample of individualized education programs (IEPs) from a sufficiently large sample of school divisions annually to verify that the IEPs are of high quality and are in compliance with state and federal laws and regulations; and

(ii) provide a summary report of its findings and required corrective actions to the reviewed divisions' superintendents, special education directors, school board chairs and vice chairs, and local special education advisory committees.

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# Individuals with disabilities more likely to face barriers to employment or further education

- In 2019, individuals with disabilities were
  - Twice as likely to be unemployed than individuals without disabilities (7.3 percent vs. 3.5 percent)
  - Half as likely to have earned at least a bachelor's degree than individuals without disabilities (19 percent vs. 39 percent)
- Transition planning and service provision in high school can lead to better post-secondary outcomes for students with disabilities, according to national research

Source: U.S. Bureau of Labor Statistics

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## School divisions required to help students with disabilities prepare for life after high school

- Schools must begin planning and supporting the student's transition out of high school when student turns 14 or during the first year of high school
- Most students will pursue either higher education, employment, or further training
- Transition planning is particularly important for students with disabilities receiving the applied studies diploma

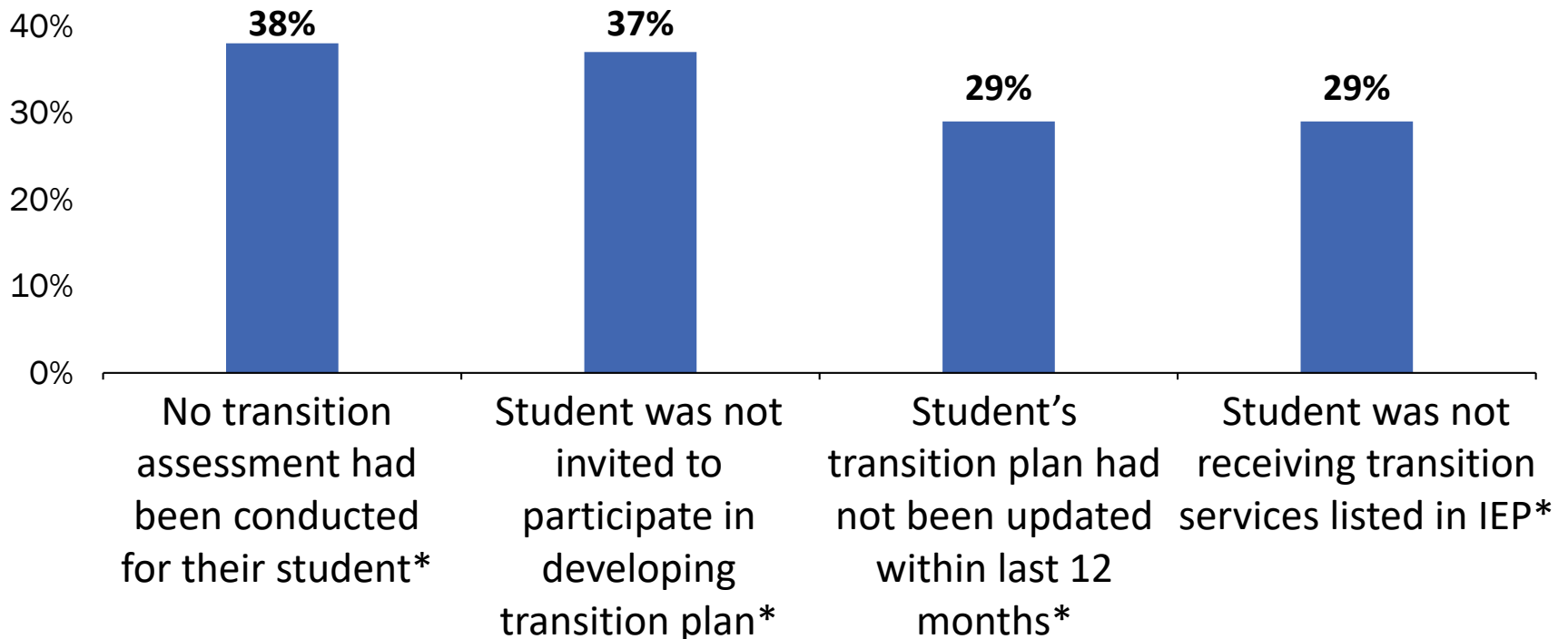
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## Finding

School divisions are not consistently providing transition services needed to prepare students with disabilities for life after high school.

# Parents report substantial gaps in transition planning and supports before COVID-19 closures

% of 528 surveyed parents with transition-age students who reported...



\*Practices required by federal law, federal regulations, state law, and/or state regulations.

## Other sources support parents' concerns

- Stakeholders from variety of perspectives, including special education teachers, DARS staff, and VCCS staff, echoed parent concerns
- Review of 150 IEP transition plans validated concerns
  - 52 percent of the transition plans included goals that were not useful or reflective of the student's interests or abilities
  - 27 percent did not include any transition services that were to be provided to the student

DARS = Department for Aging and Rehabilitative Services; VCCS = Virginia Community College System

## VDOE's monitoring of post-secondary transition planning is limited and should be improved

- Extent of problems with transition planning is unknown by VDOE
- Self-reported data used by VDOE to monitor transition planning indicates few problems exist, but this data is problematic
  - Divisions required to review sample of transition plans each year but only required to report problems to VDOE if self-identified problems are not corrected
- Estimated 23,500 students with disabilities will exit high school in next two years—warranting timely actions

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## Recommendation

The General Assembly may wish to consider directing VDOE to

- (i) conduct a one-time targeted review of the transition sections of a random sample of students' IEPs in each school division;
- (ii) communicate its findings to each local school board;
- (iii) ensure divisions correct any IEPs that are out of compliance;
- (iv) certify that all instances of non-compliance identified have been corrected before the end of the 2021–22 school year.

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## Recommendation

The General Assembly may wish to consider directing VDOE to

- (i) develop a plan for improving its oversight of and support for local practices related to post-secondary transition planning and services;
- (ii) submit its plan to the Senate Education and Health and the House Education committees no later than December 1, 2022;
- (iii) update those committees annually on its progress implementing the plan.

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## Finding

About one-fifth of Virginia students with disabilities graduate with a diploma that does not support their access to future opportunities and is not well understood.

## About one-fifth of students with disabilities graduate with an applied studies diploma

- Students receiving the applied studies diploma need only complete requirements of their IEP
  - No other academic standards or curriculum requirements
- 19 percent of students with disabilities graduated with an applied studies diploma in 2018
- Students in Region 8 (Southern Virginia), students with intellectual disabilities, and Black students with disabilities were most likely to receive applied studies diplomas

# Applied studies diploma does not support access to future educational and career opportunities

- Neither Virginia's community colleges nor four-year higher education institutions recognize the applied studies diploma as a high school diploma or equivalent
  - Students generally must obtain their GED first
- USDOE does not allow VDOE to include the applied studies diploma in its annual report on graduation rates among Virginia students with disabilities
- Parents often unaware of limitations of applied studies diploma

USDOE = U.S. Department of Education

# Statewide standards should be established for applied studies diploma

- Other states, including TN, SC, NY, LA, and AL, have established criteria to receive alternative diplomas
- Virginia state law establishes expectation that the Board of Education develop criteria to receive an applied studies diploma, beyond meeting IEP requirements
  - To date, no additional criteria have been developed
- Statewide criteria should ensure the applied studies diploma equips students with knowledge and skills necessary to achieve—to the greatest extent practicable—self-sufficiency after high school

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## Recommendation

The General Assembly may wish to consider requiring the Virginia Board of Education and the Department of Education to develop and implement statewide standards, such as curriculum standards, for earning the applied studies diploma and require school divisions to implement these standards by the beginning of the 2022–23 school year.

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# Schools required to take steps to maximize inclusion of students with disabilities

- School divisions are required by federal law to
  - educate students in the most inclusive setting appropriate for the student's needs
  - provide students with disabilities equal opportunity to participate in extracurricular and nonacademic activities
- Students should only be served in separate settings if their needs cannot be met in the general education setting using supplementary aids and services

# In survey, majority of parents satisfied with classroom and extracurricular inclusion efforts

## Parent satisfaction with the...

steps that are taken by their student's school to include their student in classroom activities with their non-disabled peers



opportunities that their student has to participate in extracurricular activities, such as athletics and clubs, with their non-disabled peers



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## Finding

Despite emphasis on inclusion, Virginia does not adequately prepare general education teachers or administrators with necessary knowledge or skills.

# General education teachers are critical to effective special education services

- Most students with disabilities receive most of their instruction in the general education classroom
  - In 2018, 71 percent of students with disabilities spent at least 80 percent of the day in the general education setting
- General education teachers should be able to
  - support, educate, and meaningfully include students with disabilities in the general education setting
  - collaborate with special education teachers, as needed, to support students with disabilities, including during instruction and while planning lessons

# Many general education teachers appear unprepared to support students with disabilities

- In survey of division special education directors
  - 50 percent reported that half or fewer of the general education teachers in their division have the skills necessary to support students with disabilities
  - 47 percent reported that half or fewer of the general education teachers in their division had the skills necessary to effectively collaborate with special education teachers
- In interviews, special education teachers echoed these concerns

\*JLARC received responses from 102 special education divisions for a 77 percent response rate. Ninety-nine respondents answered these questions.

# Many general education teachers not prepared to work with students with disabilities

- General education teacher preparation programs have different special education course requirements
- Courses that would support effective, inclusive education for students with disabilities are offered by general education teacher preparation programs, but commonly only as electives
  - Collaborative teaching models
  - Effective behavior management

# Recommendations

The General Assembly may wish to consider

- (i) directing the Board of Education to review and update its regulations of general education K–12 teacher preparation programs to ensure graduates demonstrate proficiency in critical skills necessary to effectively support students with disabilities and collaborate with special education teachers; and
- (ii) requiring teachers who are seeking to renew their teaching license to complete a VDOE-developed online training module on how to effectively support students with disabilities and collaborate with special education teachers.

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# Qualified special education teachers are essential to effective special education services

- Special education teachers have many important responsibilities, including
  - understanding complex federal and state legal and regulatory requirements relating to special education;
  - knowing characteristics and manifestations of disabilities;
  - conducting effective case management;
  - providing specialized instruction; and
  - collaborating effectively with general education teachers.
- Other school staff, including provisionally licensed special education teachers, not required to have this knowledge

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## Finding

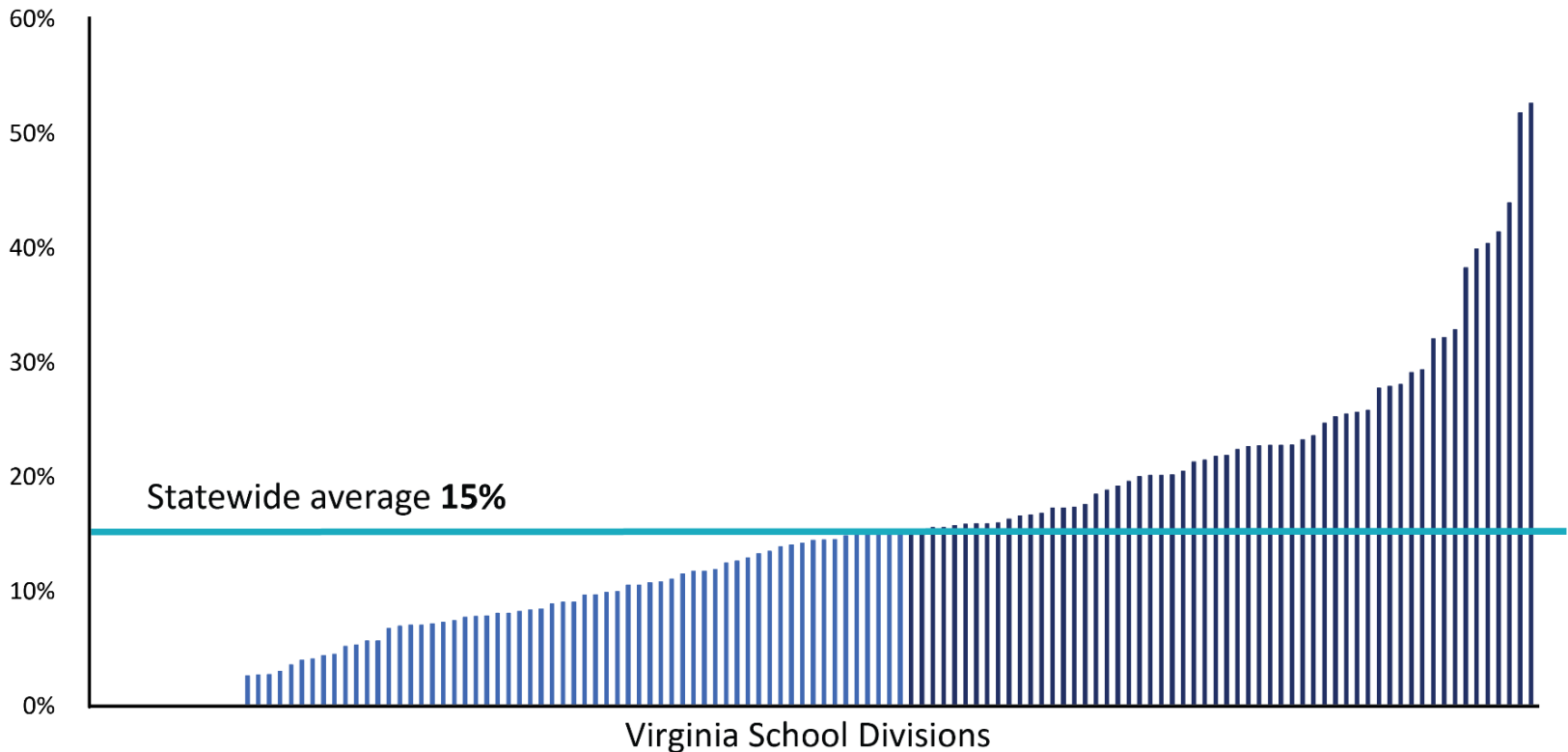
VDOE leadership needed to address longstanding shortage of special education teachers in Virginia.

## Divisions rely more on underqualified teachers for special education than other areas

- In 2019–20, an estimated 15 percent (2,038) of special education teachers were provisionally licensed statewide, compared with 5 percent in other subjects
  - Estimated 30,000 students with disabilities were taught by a provisionally licensed special education teacher in 2019–20 school year
- Reliance on long-term substitutes also appears higher
  - Vacancy rates twice as high as other subjects

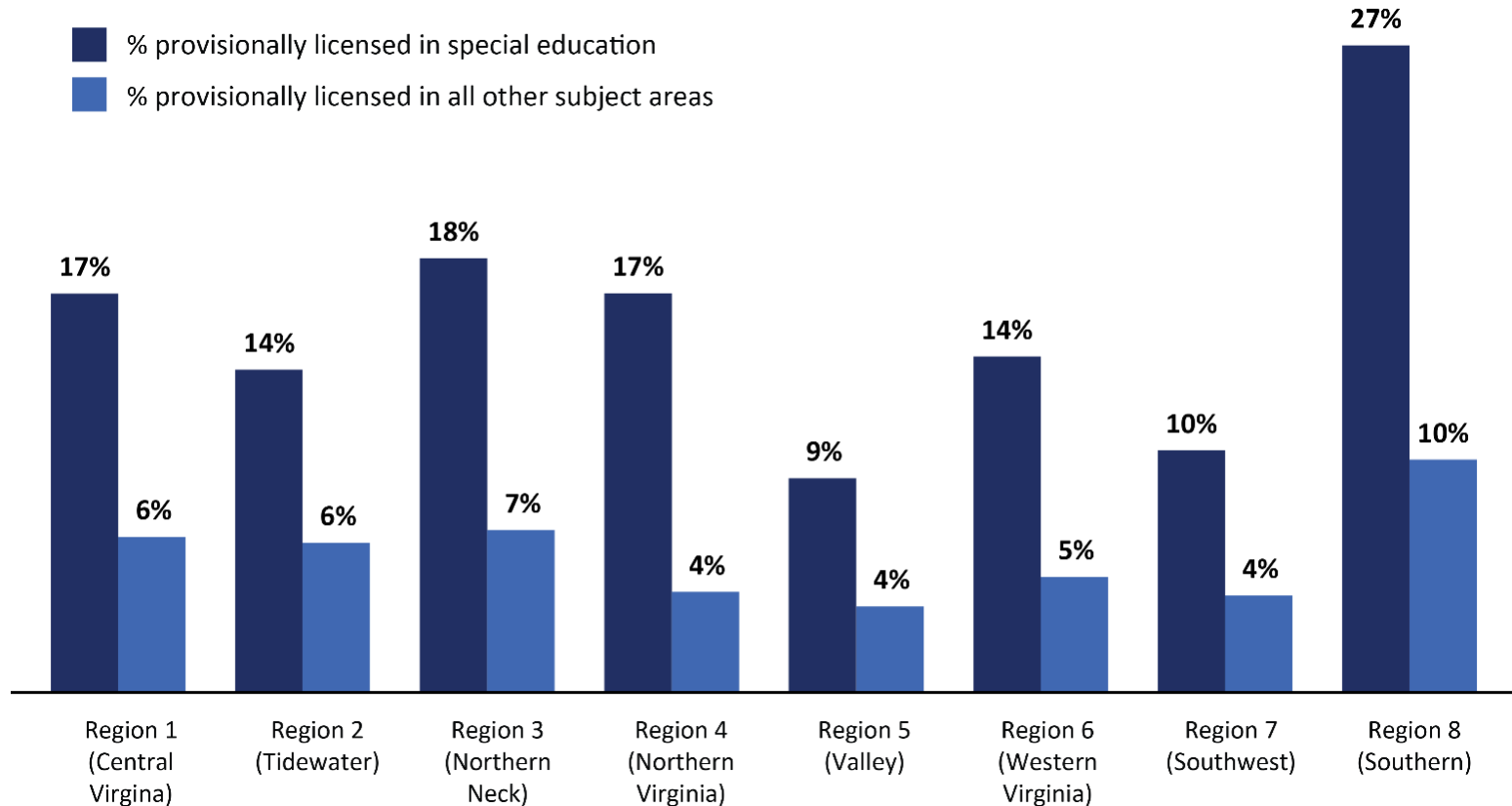
# Some divisions rely heavily on provisionally licensed special education teachers (2019–20)

% of SPED teachers who are only provisionally licensed (estimate)



Note: JLARC staff estimates. Includes 14 divisions that had no provisionally licensed special education teachers in school year 2019–20.

# Region 8 (Southern Virginia) most reliant on provisionally licensed special education teachers



Note: JLARC staff estimates. School year 2018–19.

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## Challenges appear to be driven by low supply, compensation concerns, and retention problems

- Special education directors attributed hiring difficulties primarily to lack of qualified applicants and low compensation
- Interviews and 2019 VDOE teacher working conditions survey indicate inadequate administrator knowledge and support and lack of collaboration in schools are key contributors to turnover among special education teachers

## VDOE leadership is needed to address longstanding special education teacher shortage

- VDOE required to help ensure state has enough special education teachers to effectively serve its students
- Shortage of special education teachers not new
  - Identified as among top three shortage areas since 2003
- VDOE lacks basic information needed to understand magnitude of special education teacher shortage
  - Does not know how many special education teachers there are in Virginia

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## Recommendation

The General Assembly may wish to consider directing the Virginia Department of Education (VDOE) to

- (i) develop and maintain a statewide strategic plan for recruiting and retaining special education teachers.
- (ii) present its plan to the Senate Education and Health Committee and the House Education Committee no later than November 1, 2021, and
- (iii) update those committees annually on its progress implementing the plan.

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# Federal law requires states to maintain effective systems of supervision over special education

- States required to have policies and procedures to ensure non-compliance is identified and fixed
  - Proactive – ongoing monitoring
  - Reactive – investigation of specific allegations that a division violated federal or state law or regulations
- Effective systems of supervision give families and legislators confidence that appropriate and effective services are being provided to students with disabilities
- In June 2020, U.S. Department of Education found VDOE's supervision of special education was inadequate

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## Finding

VDOE's handling of complaints against school divisions does not ensure problems are resolved.

## VDOE's investigations of complaints against divisions appear to meet federal requirements

- Number of complaints to VDOE about divisions has ranged from 121 to 160 per year over past decade
  - Greater volume expected because of COVID-19 impacts and greater awareness among parents
- VDOE appears to consider relevant evidence and develop supported conclusions when investigating complaints
- Since 2014–15, VDOE has found non-compliance in about 40 percent of completed investigations per year

## VDOE-required corrective actions of divisions do not ensure non-compliance is corrected

- VDOE rarely requires school divisions to provide make-up services to students who have not received legally required services
  - Directs division to hold a meeting to discuss possibility of compensatory services, submit evidence of meeting
  - Places unnecessary burden on parents to ensure student receives needed services and delays student's receipt of needed services
- Procedural non-compliance often not effectively addressed through corrective action, which increases likelihood that it will be repeated by divisions

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## Recommendation

The General Assembly may wish to consider directing the Virginia Department of Education to revise its state complaint procedures and practices to ensure it requires and enforces corrective actions that (i) achieve full and appropriate remedies for school divisions' non-compliance, including, at a minimum, requiring school divisions to provide compensatory services to students when it determines divisions did not provide legally obligated services; and (ii) ensure relevant personnel understand how to avoid similar non-compliance in the future.

## VDOE should better publicize and strengthen its special education ombudsman service

- In addition to state complaint services, VDOE offers an ombudsman service for parents, but it is not well publicized
- Position of special education ombudsman should be elevated at VDOE and made independent of special education department
  - Would allow ombudsman position to better address common or urgent problems with divisions' special education services or VDOE's supervision of these services

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# Recommendations

VDOE should

- (i) develop a one-page and easy-to-understand summary of the roles and responsibilities of the special education ombudsman, and how to contact the ombudsman; and
- (ii) elevate the position of special education parent ombudsman to report to an individual in the VDOE leadership outside of the Department of Special Education and Student Services.

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## Finding

VDOE's ongoing monitoring is too limited to identify significant problems in special education.

## VDOE's on-site monitoring appears useful, but too few divisions are subject to it

- When conducted, VDOE's on-site reviews are structured and comprehensive
- Since FY16, only 22 of 132 school divisions have been subject to VDOE on-site review
  - Average of four per year
  - About 11 percent of K-12 special education population
- Vast majority of divisions could go over a decade without receiving an in-depth review of their special education programs from VDOE

# VDOE unable to answer important questions about experiences of students with disabilities

- VDOE unable to answer important questions such as:
  - Why are students with certain disabilities much more likely to be enrolled in special education in some divisions than in others?
  - Why are students with certain disabilities less likely to graduate in some divisions than in others?
  - What is the general quality of IEPs across divisions, and where should divisions focus greater attention to ensure students have useful and effective IEPs?
  - Are divisions taking basic steps to prepare students with disabilities for life after high school?

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## Feedback suggests additional monitoring and assistance would be beneficial and well received

- Most division-level special education directors reported being satisfied with VDOE technical assistance and guidance in K–12 special education
- Most directors of special education whose divisions had to address non-compliance within past three years felt VDOE provided sufficient guidance and support

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## VDOE could leverage existing data and take cost-efficient steps to improve its monitoring abilities

- VDOE has a lot of information it needs to improve its monitoring capabilities
- VDOE has signaled its intention to improve its monitoring capabilities
- Improvements may require additional state funds but should first consider existing resources or re-prioritizing current use of federal funds

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## Recommendation

The General Assembly may wish to direct VDOE to develop and implement a clear and comprehensive plan to improve its approach to monitoring Virginia's special education system on an ongoing basis. VDOE should present its plan to the Senate Education and Health Committee, the House Education Committee, and JLARC no later than November 1, 2021.

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## Key findings

Graduation rates and test scores have improved among students with disabilities but remain much lower than students without disabilities.

IEPs are not consistently designed effectively.

School divisions are not consistently preparing students with disabilities for life after high school.

“Applied studies diploma” for students with disabilities does not support access to future educational or career opportunities.

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## Key findings (continued)

Many general education teachers and school administrators lack knowledge and skills to effectively support students with disabilities.

Longstanding shortage of special education teachers persists, and many school divisions rely on under-prepared teachers to fill gaps.

VDOE's handling of complaints against divisions does not ensure all problems are resolved, and its monitoring is too limited to identify significant problems in special education.

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