

# Recommendations: K–12 Special Education in Virginia

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## RECOMMENDATION 1

The Virginia Board of Education should more clearly define terms used in 8-VAC-20-81-80 including, but not limited to, terms such as “adverse effect” and “environmental, cultural, or economic factors.” (Chapter 3)

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## RECOMMENDATION 2

The Virginia Department of Education should improve its eligibility worksheets and other guidance documents to better ensure more accurate and consistent eligibility determinations and equal access to special education services across school divisions. (Chapter 3)

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## RECOMMENDATION 3

The Virginia Department of Education should revise and improve the training and guidance documents it provides to school divisions on the development of individualized education programs for students with disabilities, incorporating more specific examples of high quality present level of performance descriptions, annual goals, and post-secondary transition sections. (Chapter 4)

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## RECOMMENDATION 4

The General Assembly may wish to consider amending the Code of Virginia to direct the Virginia Department of Education to develop a required training module for individuals participating in individualized education program (IEP) meetings that comprehensively addresses and explains in detail (i) each team member’s respective role in the IEP meeting; (ii) the IEP development process; and (iii) components of effective IEPs. (Chapter 4)

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## RECOMMENDATION 5

The General Assembly may wish to consider amending the Code of Virginia to require that all individualized education program (IEP) team members participating in IEP development, with the exception of parents, complete a Virginia Department of Education-approved training regarding their roles in the IEP meeting, the IEP development process, and components of effective IEPs prior to participating in the IEP process and at regular intervals thereafter. (Chapter 4)

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## RECOMMENDATION 6

The General Assembly may wish to consider amending § 22.1-214 of the Code of Virginia to require that school divisions provide a draft individualized education program (IEP) to parents at least two business days before the scheduled IEP meeting, if a draft IEP is developed in advance of the meeting. (Chapter 4)

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### **RECOMMENDATION 7**

The General Assembly may wish to consider amending the § 22.1-214 of the Code of Virginia to require that the Virginia Department of Education (VDOE) 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 in compliance with state and federal laws and regulations and are of high quality. VDOE should provide a summary report of the reviews' findings and required corrective actions to the reviewed divisions' superintendents, special education directors, school board chairs and vice-chairs, and local special education advisory committee. (Chapter 4)

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### **RECOMMENDATION 8**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education to (i) conduct a one-time targeted review of the transition sections of a random sample of students' individualized education programs (IEPs) in each school division; (ii) communicate its findings to each local school division, school board, and local special education advisory committee; and (iii) ensure local school divisions correct any IEPs that are found out of compliance. The superintendent of public instruction should be directed to submit a letter to the Senate Education and Health and the House Education committees certifying that school divisions have corrected all instances of non-compliance identified through these reviews, which should occur no later than the end of the 2021–22 school year. (Chapter 5)

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### **RECOMMENDATION 9**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education (VDOE) to develop and maintain a robust statewide plan for improving (i) its ongoing oversight of local practices related to transition planning and services and (ii) technical assistance and guidance provided for post-secondary transition planning and services. At a minimum, the plan should articulate how VDOE will reliably and comprehensively assess the compliance and quality of transition plans for students with disabilities in Virginia on an ongoing basis and communicate findings to local school division staff and local school boards. VDOE should submit its plan to the Senate Education and Health and the House Education committees no later than December 1, 2022, and update those committees annually on its progress implementing the plan. (Chapter 5)

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### **RECOMMENDATION 10**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education to develop clear and simplified guidance, in multiple languages, for families conveying (i) the limitations of the applied studies diploma; (ii) key curriculum and testing decisions that reduce the likelihood their student will be able to obtain a standard diploma; and (iii) pursuit of an applied studies diploma may preclude a student's ability to pursue a standard diploma. (Chapter 5)

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### **RECOMMENDATION 11**

The General Assembly may wish to consider amending section §22.1-253.13:4 of the Code of Virginia to require local school divisions to provide guidance from the Virginia Department of Education regarding the applied studies diploma and its limitations to parents of students with disabilities, at a minimum, (i) at the first IEP meeting and (ii) when curriculum or testing decisions are being made that will negatively impact a student’s chances of obtaining a standard diploma. (Chapter 5)

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### **RECOMMENDATION 12**

The General Assembly may wish to consider amending § 22.1-253.13:4 of the Code of Virginia to require 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. (Chapter 5)

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### **RECOMMENDATION 13**

The Virginia Department of Education (VDOE) should, as part of its reviews of school divisions’ individualized education programs (IEPs), determine whether the special education and related services, supplementary aids and services, and program modifications that will be provided to enable students with disabilities to participate in nonacademic and extracurricular activities are sufficient, and include its findings and required corrective actions in the summary reports it provides to the reviewed divisions’ superintendents, special education directors, and school board chairs and vice-chairs. (Chapter 6)

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### **RECOMMENDATION 14**

The Virginia Department of Education should issue a superintendent’s memo clarifying school divisions’ responsibility to (i) provide the special education and related services, supplementary aids and services, and program modifications necessary to provide children with disabilities an equal opportunity to participate in nonacademic and extracurricular activities; and (ii) include a description of these aids, services, and program modifications in students’ individualized education programs (IEPs), as appropriate. (Chapter 6)

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### **RECOMMENDATION 15**

The General Assembly may wish to consider including language in the Appropriation Act directing the Board of Education to review and update its regulations of general education K–12 teacher preparation programs to ensure graduates are required to demonstrate proficiency in (1) differentiating instruction for students depending on their needs, (2) understanding the role of general education teachers on the IEP team, (3) implementing effective models of collaborative instruction, including co-teaching, and (4) understanding the goals and benefits of inclusive education for all students. (Chapter 6)

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### **RECOMMENDATION 16**

The General Assembly may wish to consider amending § 22.1-298.1 of the Code of Virginia to require all teachers seeking to renew their teaching license to complete training in the instruction of students with disabilities. This training should be developed by the Virginia Department of Education and should include, at a minimum, (1) strategies for differentiating instruction for students with disabilities, (2) the role of the general education teacher in special education, (3) the use of effective models of collaborative instruction, including co-teaching, and (4) the goals and benefits of inclusive education for all students. (Chapter 6)

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### **RECOMMENDATION 17**

The General Assembly may wish to consider including language in the Appropriation Act directing the Board of Education to review and update its regulations governing administrator preparation programs to ensure graduates are required to demonstrate comprehension of (1) key special education laws and regulations, (2) individualized education program (IEP) development, (3) the roles and responsibilities of special education teachers, and (4) appropriate behavior management practices. (Chapter 6)

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### **RECOMMENDATION 18**

The General Assembly may wish to consider amending § 22.1-215 of the Code of Virginia to require each K–12 public school to (i) complete the Inclusive Schools Self-Assessment instrument and action planning tool at least once every three years and (ii) report the results of the assessment and plans for improvement to the division’s superintendent, special education director, chairs of the local school board and local special education advisory committee, and to the Virginia Department of Education. (Chapter 6)

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### **RECOMMENDATION 19**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education (VDOE) to develop and maintain a statewide strategic plan for recruiting and retaining special education teachers. At a minimum, VDOE’s strategic plan should (i) use data analyses to determine divisions’ specific staffing needs on an ongoing basis; (ii) evaluate the potential effectiveness of strategies for addressing recruitment and retention challenges, including tuition assistance, differentiated pay for special education teachers, and the expansion of special education teacher mentorships; and (iii) estimate the costs of implementing each strategy, including the extent to which federal funds could be used to support implementation. VDOE should present its plan to the Senate Education and Health Committee and the House Education Committee no later than November 1, 2021, and update those committees annually on its progress implementing the plan. (Chapter 7)

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### **RECOMMENDATION 20**

The Virginia Department of Education (VDOE) should (i) develop criteria for what constitutes “exceptional circumstances” that warrant extension of the 60-calendar day regulatory timeline for complaint investigations; (ii) include these criteria in its publicly available complaint resolution procedures; (iii) consistently track the duration between VDOE’s receipt of each sufficient complaint and its issuance of the respective letter of findings; and (iv) require staff to report at least quarterly to the superintendent of public instruction on the specific reasons for granting an extension because of “exceptional circumstances” and the amount of time it took to complete each investigation beyond the 60-calendar day time limit. (Chapter 8)

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### **RECOMMENDATION 21**

The General Assembly may wish to consider including language in the Appropriation Act 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. (Chapter 8)

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### **RECOMMENDATION 22**

The Virginia Department of Education should develop policies and procedures for tracking, investigating, and resolving allegations of violations of special education law and regulations that do not meet the current regulatory standard for state complaints. These policies and procedures should include expectations and mechanisms for collaboration between the Office of Dispute Resolution and Administrative Services and the Office of Special Education Program Improvement to investigate and resolve alleged violations that do not qualify for state complaint investigations. (Chapter 8)

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### **RECOMMENDATION 23**

The Virginia Department of Education (VDOE) should develop a one-page, easy-to-understand, and comprehensive summary of the roles and responsibilities of the parent ombudsman, the specific supports the parent ombudsman can provide to parents, and how to contact the parent ombudsman. VDOE should make this one-page summary available in multiple languages and ensure it is easily accessible on its website. (Chapter 8)

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#### **RECOMMENDATION 24**

The Virginia Department of Education (VDOE) should (i) 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 and (ii) require the ombudsman to systematically track the questions or concerns raised, and report common questions or concerns to the superintendent of public instruction and the assistant superintendent of special education and student services on at least a quarterly basis. (Chapter 8)

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#### **RECOMMENDATION 25**

The Virginia Department of Education should develop and implement a process for systematically auditing and verifying school divisions' self-determinations of compliance with all Individuals with Disabilities in Education Act performance indicators. The verification process should include a random sample of divisions each year and ensure that all divisions' self-determinations are reviewed and verified no less frequently than once every five years. (Chapter 8)

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#### **RECOMMENDATION 26**

The Virginia Department of Education (VDOE) should review and revise, as appropriate, its federal indicator-based public reports on school divisions' special education services to ensure they accurately and clearly articulate (i) the extent to which the school division's self-reported performance or compliance has been independently validated by VDOE and (ii) what each performance or compliance indicator is actually measuring. (Chapter 8)

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#### **RECOMMENDATION 27**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Department of Education (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. At a minimum, the plan should clearly describe VDOE's procedures for effectively determining whether school divisions are complying with state and federal requirements pertaining to (i) identification and eligibility determination processes; (ii) individualized education program development and implementation, (iii) post-secondary transition planning; (iv) inclusion in academic and non-academic experiences and the use of discipline; and (v) special education staffing. The plan should also propose actions to increase monitoring capacity and on-site visits with existing resources and by leveraging available federal funding. VDOE should present its plan to the Senate Education and Health Committee, the House Education Committee and the Joint Legislative Audit and Review Commission no later than November 1, 2021. (Chapter 8)

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