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| **Virginia Board of Education Agenda Item** | **Seal of the Commonwealth of Virginia** |

# Agenda Item: M

## Date: April 22, 2021

### Title: Presentation on Progress Towards Implementation of the Recommendations from the JLARC Reports *(Operations and Performance of the Department of Education, Review of the Children’s Services Act and Private Special Education Day Schools,* and *K-12 Special Education in Virginia)*

#### Presenter: Dr. Samantha Hollins, Assistant Superintendent for Special Education and Student Services

#### Dr. Linda Reviea, Special Project Coordinator

#### Email: [Samantha.hollins@doe.virginia.gov](mailto:Samantha.hollins@doe.virginia.gov) (804) 786-8079

[**Linda.reviea@doe.virginia.gov**](mailto:Linda.reviea@doe.virginia.gov) **(804) 786-5834**

## Purpose of Presentation:

For information only. No action required.

**Executive Summary:**In 2018, the Joint Legislative Audit and Review Commission (JLARC) approved a resolution directing staff to review the Virginia Department of Education (VDOE) because (i) it is a large state agency that plays a critical role in educating Virginia’s children and (ii) it had not been reviewed by JLARC in many years. The report was released at the October 5, 2020, JLARC meeting. A copy of the report can be found online at <http://jlarc.virginia.gov/pdfs/reports/Rpt538.pdf>. Additionally, a summary of the recommendations and policy options is also available at <http://jlarc.virginia.gov/pdfs/summary/Rpt538Sum.pdf>

In 2019, JLARC approved a resolution directing staff to conduct a review of the Children’s Services Act (CSA) Program. The study resolution required staff to examine drivers of spending growth in the CSA program, the cost effectiveness of services, especially private special education day schools, and state and local administration and oversight of the CSA. The report was released at the November 16, 2020, JLARC meeting. A copy of the report can be found online at <http://jlarc.virginia.gov/pdfs/reports/Rpt541-1.pdf>. Additionally, a summary of the recommendations is also available online at <http://jlarc.virginia.gov/pdfs/summary/Rpt541Sum.pdf>.

In 2018, the study topic subcommittee of the JLARC asked staff to conduct a review of K-12 special education services. The study resolution required staff to examine the processes used by school divisions to enroll students in special education, to determine the services needed by students with disabilities, and to provide needed services, as well as to review the effectiveness of the VDOE in its supervisory role. The report was released at the December 14, 2020, JLARC meeting. A copy of the report can be found online at <http://jlarc.virginia.gov/pdfs/reports/Rpt545.pdf>. Additionally, a summary of the recommendations is also available online at <http://jlarc.virginia.gov/pdfs/summary/Rpt545Sum.pdf>.

Today’s presentation provides a status update on the progress towards implementation of the recommendations from each of the JLARC reports released in Fall 2020. Each recommendation or policy option is in development, in progress or completed as noted in the presentation.

**Action Requested:**

No action requested.

## Superintendent’s Recommendation:

The Superintendent of Public Instruction recommends that the Virginia Board of Education accept this report and presentation.

## Previous Review or Action:

No previous review or action.

**Background Information and Statutory Authority:**   
In 2018, JLARC approved a resolution directing staff to review the Virginia Department of Education (VDOE) because (i) it is a large state agency that plays a critical role in educating Virginia’s children and (ii) it had not been reviewed by JLARC in many years. The Department provided this report to the Board during their January 28, 2021 business meeting.

The VDOE, through the Virginia Board of Education, has the broad statutory direction to provide “general supervision of the public school system” and to conduct “proper and uniform enforcement of the provisions of the school laws in cooperation with the local school authorities.” The VDOE has about 350 employees who are located in the agency’s office in downtown Richmond.

The VDOE has committed to work to implement the recommendations from the JLARC report in a way that is consistent with federal and state requirements and the role and responsibility of the state education agency. A summary of recommendations from the JLARC report are provided below.

* Direct the creation of a pilot program to more comprehensively supervise school division compliance with a subset of key state standards.
* Amend the Code of Virginia to require the development, implementation, and evaluation of effective state school improvement services.
* Provide additional funds for more staffing to provide school improvement services in the Office of School Quality.
* Develop and implement a plan to effectively transition to the new school improvement model.
* More effectively implement existing responsibilities related to teacher recruitment and retention.
* Provide additional funds for new staff to design and implement a pilot program to more comprehensively supervise school division compliance with a subset of key state standards.
* Provide additional funds for more staffing in the Office of Teacher Education.
* Expand the support the Office of Teacher Education provides to divisions experiencing challenges recruiting and retaining teachers.

In 2019, JLARC asked staff to conduct a review of the Children’s Services Act (CSA) program. The study resolution required staff to examine drivers of spending growth in the CSA program, the cost effectiveness of services, especially private special education day school, and state and local oversight and administration of CSA. The Department provided this report to the Board during their January 28, 2021 business meeting.

The CSA program was created in 1992 to more efficiently and effectively serve Virginia children who require services from multiple different programs. Services include community-based behavioral health services (e.g. outpatient counseling) for children in foster care or at risk of foster care placement and services delivered to students with disabilities who are placed in private special education day schools instead of public school. In FY19, 15,656 children received services funded by CSA, the majority of whom were in foster care or private special education day school placements.

As a result of this review many of the recommendations identify the Board of Education, the Virginia Department of Education and have the potential to impact VDOE and local school divisions.

* Allow funds reserved for private special education day school services to be used to pay for special education services and supports delivered in the public school setting, either to prevent children from being placed in more restrictive settings like private day school, or to transition them back to public school from more restrictive settings.
* Transfer funding for private special education day school services from the CSA program to VDOE.
* Direct VDOE to annually collect and publish performance data on private day schools that is similar to or the same as data collected and published for public schools.
* Direct the Board of Education to develop and promulgate new regulations for private day schools on restraint and seclusion that mirror those for public schools.
* Require all local CSA programs to serve all children identified as eligible for CSA funds, including those categorized as “non-mandated.”
* Direct OCS to more actively monitor and work with local CSA programs that need technical assistance or are underperforming.

In 2018, the study topic subcommittee of the Joint Legislative Audit and Review Commission (JLARC) asked staff to conduct a review of K–12 special education services. The study resolution required staff to examine the processes used by school divisions to enroll students in special education, to determine the services needed by students with disabilities, and to provide needed services, as well as to review the effectiveness of VDOE in its supervisory role. The Department provided this report to the Board during their January 28, 2021 business meeting.

Federal law requires public schools to provide students with disabilities specially designed instruction and services to ensure that their education is appropriately ambitious in light of the student’s particular circumstances. In the 2018–19 school year, about 164,000 K–12 students were enrolled in special education, about 13 percent of Virginia’s total student population.

The Virginia Department of Education’s Department of Special Education and Student Services oversees the leadership, monitoring and implementation of federal and state requirements related to the provision of services and supports for students with disabilities. The Department of Special Education and Student Services is responsible for general supervision and monitoring the implementation of the *Individuals with Disabilities Education Act* (IDEA) in accordance with the provisions at 34 CFR 300.604(a)(1), and (a)(3), (b)(2)(i) and (b)(2)(v), and (c)(2) and the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8 VAC 20-80. Virginia’s general supervision is a system that involves the following components: State Performance Plan (SPP) and Annual Performance Reports (APR); effective policies and procedures; targeted technical assistance and professional development; effective dispute resolution system; integrated on-site and off-site monitoring activities; data verification; improvement and corrective action planning; and follow-up to ensure timely corrections.

The VDOE has committed to work to implement the recommendations from the JLARC report in a way that is consistent with federal and state requirements and the role and responsibility of the state education agency. A summary of recommendations from the JLARC report are provided below.

* Direct the VDOE to conduct a targeted review, in the near term, of the transition sections of student IEPs to identify improvements needed to student transition planning, and direct the VDOE to develop a robust statewide plan for improving transition planning for students with disabilities.
* Require school divisions to provide a draft IEP to parents at least two business days in advance of the IEP team meeting, but only if a draft IEP is developed in advance of the meeting.
* Direct the VDOE and the Board of Education to develop and implement statewide criteria for the applied studies diploma and require local school divisions to more fully explain the limitations of this diploma to families.
* Direct the Board of Education to review and update regulations governing K–12 teacher preparation programs to require that graduates are proficient in teaching students with disabilities and require teachers seeking license renewal to complete training in instructing students with disabilities.
* Direct the Board of Education to review and update regulations governing administrator preparation programs to require that graduates demonstrate comprehension of key aspects of special education.
* Direct the VDOE to develop and maintain a data-driven statewide strategic plan for recruiting and retaining special education teachers.
* Direct the VDOE to revise its handling of special education complaints to require that school divisions carry out corrective actions that fully and appropriately remedy any found instances of school non-compliance.
* Direct the VDOE to develop and implement a robust plan to improve the effectiveness of its supervision and monitoring of special education.

**Timetable for Further Review/Action:**  
At this time, no further Board action is required.

## Impact on Fiscal and Human Resources:

There will be an impact on both the fiscal and human resources of the agency to implement the recommendations of the report.