



#199-21

**Commonwealth of Virginia
Virginia Department of Education
Superintendent's Memo #199-21**

DATE: July 30, 2021
TO: Division Superintendents
FROM: James F. Lane, Ed.D., Superintendent of Public Instruction
SUBJECT: **Amendments to §§ 9.1-153 and 9.1-156. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training and its impact on the Regulations Governing Special Education Programs for Children with Disabilities in Virginia**

The General Assembly has passed House Bill 1866, which amends the *Code of Virginia* pertaining to volunteer court-appointed special advocates; powers and duties; assignment; qualifications; and training.

This legislation became effective July 1, 2021. The amendments to the *Code of Virginia* relevant to special education are as follows:

§§ 9.1-153.C:

- The program director shall assign an advocate to a child when requested to do so by the judge of the juvenile and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his association with each case to which he is assigned until relieved of his duties by the court or by the program director. *The program director may assign an advocate to attend and participate in family partnership meetings as defined by the Department of Social Services and in meetings of family assessment and planning teams established pursuant to [§ 2.2-5208](#), multidisciplinary child sexual abuse response teams established pursuant to [§ 15.2-](#)*

[1627.5](#), *individualized education program teams established* pursuant to Article 2 ([§ 22.1-213](#) et seq.) of Chapter 13 of Title 22.1, and multidisciplinary teams pursuant to [§ 63.2-1503](#) and [§ 63.2-1505](#).

§§ 9.1-156.B:

- *An advocate shall not disclose the contents of any document or record to which he becomes privy, which is otherwise confidential pursuant to the provisions of this Code, except (i) upon order of a court of competent jurisdiction or (ii) if the advocate has been assigned pursuant to subsection C of [§ 9.1-153](#) to attend and participate in family partnership meetings as defined by the Department of Social Services or in meetings of family assessment and planning teams established pursuant to [§ 2.2-5208](#), multidisciplinary child sexual abuse response teams established pursuant to [§ 15.2-1627.5](#), *individualized education program teams* established pursuant to Article 2 ([§ 22.1-213](#) et seq.) of Chapter 13 of Title 22.1, or multidisciplinary teams established pursuant to [§ 63.2-1503](#) and [§ 63.2-1505](#), the advocate may verbally disclose any information contained in such document or record related to the child to which he is assigned at such meetings, provided that such information shall not be disclosed further.*

The Purpose of the Amendments as Related to Special Education

These code amendments permit court-appointed special advocates (CASA volunteers) to participate in and verbally share information with individualized educational program team members. Prior to these amendments, CASA volunteers could attend IEP team meetings but were unable to share information with the team members.

CASA Regulations and their impact on the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (Special Education Regulations)

The *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* and the *Individuals with Disabilities Education Act* state that, at the discretion of the

parent(s) or local educational agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel can be invited to an IEP team meeting. This determination can be made by the parent or the local school division as defined by 8VAC20-81-10. Thus, in order for CASA volunteers to participate in an IEP team meeting, they must be invited by either the parent or the school division. The school division must give parents notice that the CASA volunteer was invited to the IEP team meeting via the meeting notice.

Additionally, school divisions should keep in mind that the *Family Educational Rights and Privacy Act* (FERPA) requires parental consent before disclosing personally identifiable information (PII) to anyone other than school officials, unless the disclosure is authorized under a FERPA exception. Thus, a school division should review whether the CASA volunteers' requests to review records fall under a FERPA exception before releasing PII. If a school division is unsure about whether such release is permissible under FERPA, the division should request parental consent before releasing PII.¹

For more information

Questions should be directed to:

Sabrina Gross, Coordinator of Complaints and Special Projects, Special Education and Student Services, Office of Dispute Resolution and Administrative Services, VDOE, by email at Sabrina.Gross@doe.virginia.gov, or by telephone at (804) 225-2013.

Melissa O'Neill, State CASA Program Coordinator, Division of Programs and Services, Virginia Department of Criminal Justice Services, by email at Melissa.O'neill@dcjs.virginia.gov, or by telephone at (804) 786-6428.

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¹ Please note that there was no change to the requirement that in §§ 9.1-156 that "Upon presentation by the advocate of the order of his appointment and upon specific court order, any state or local agency, department, authority, or institution, and any hospital, school, physician, or other health or mental health care provider shall permit the advocate to inspect and copy, without the consent of the child or his parents, any records relating to the child involved in the case."