

**REPORT OF THE
VIRGINIA BOARD OF EDUCATION**

**In Response to Recommendations
of the Joint Subcommittee
Studying the Overrepresentation
of African-American Students in
Special Education Programs**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 13

**COMMONWEALTH OF VIRGINIA
RICHMOND
2002**



COMMONWEALTH of VIRGINIA

BOARD OF EDUCATION

Kirk T. Schroder
President

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October 22, 2001

Dear Governor Gilmore and Members of the General Assembly:

House Joint Resolution 640, passed by the 2001 General Assembly, requests the Board of Education to review, consider, and address a number of recommendations of the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs.

Attached for your review and consideration is the report that has been prepared in response to this request.

Respectfully submitted,

A handwritten signature in black ink that reads "Kirk T. Schroder".

Kirk T. Schroder

KTS:hdc

Attachment

PREFACE

The 1999 Virginia General Assembly passed House Joint Resolution 707 specifying that a joint subcommittee be established to study the overrepresentation of African-American students in special education programs. The joint subcommittee subsequently prepared a resolution adopted by the 2001 General Assembly to transmit certain findings and recommendations from its two-year study. House Joint Resolution 640 (**Appendix D**) recommended that the Virginia Board of Education consider specific activities to eliminate the disproportionate representation of African-American and other minority students in special education programs.

The Board of Education, in concert with the Department of Education, considered each recommendation and submits the following report to the Governor and the General Assembly.

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EXECUTIVE SUMMARY

House Joint Resolution 640, passed by the 2001 General Assembly, requests that the Virginia Board of Education review and consider certain recommendations made by the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs.

At the request of the joint subcommittee, the Board will undertake the following activities:

- Monitor and report annually to the Governor and the General Assembly information concerning the number of African-American and other minority students in special education; the number of school divisions identified as having a disproportionate enrollment of minority students in special education; and the number of students with disabilities, by race/ethnic designation who drop out of school

The Department of Education, with advice and consent of the Board of Education, will undertake the following activities:

- Disseminate information to parents concerning the right to withdraw consent for placement of their children in special education
- Encourage school divisions to provide training to teachers in the identification of students with disabilities as part of continuing professional development opportunities
- Provide cultural competency training to school division personnel
- Continue to provide programmatic and fiscal support for the development of building level instructional support teams
- Continue to provide programmatic and fiscal support for parent resource centers

INTRODUCTION

The 1999 Virginia General Assembly passed House Joint Resolution 707 specifying that a joint subcommittee be established to study the overrepresentation of African-American students in special education programs. The joint subcommittee met over a two-year period, studying and discussing numerous issues related to the disproportionate representation of African-American and other minority students in special education. In conducting its work, the joint subcommittee heard from special education personnel, school administrators, and parents. Representatives from the Medical College of Virginia and the Council for Exceptional Children provided information as well.

Department of Education staff attended each joint subcommittee meeting and provided data and/or procedural information as requested by the Chairman.

The joint subcommittee subsequently prepared a resolution adopted by the 2001 General Assembly. House Joint Resolution 640 recommends that the Virginia Board of Education consider specific activities to eliminate the disproportionate representation of African-American and other minority students in special education programs.

The Board of Education, in concert with the Department of Education, considered each recommendation and submits the following report to the Governor and the General Assembly.

The Virginia Board of Education hereby submits the following information in response to the recommendations contained in House Joint Resolution 640, enacted by the 2001 Virginia General Assembly.

RECOMMENDATION 1

Monitor the identification and placement of African-American and other minority students in special education and report its findings annually to the Governor and the General Assembly, beginning January 2002 through 2004.

The Board of Education will monitor this information and will report its findings annually to the Governor and the General Assembly beginning in January 2002. The Virginia Department of Education (department), through the December 1 child count, collects annually information concerning the number of students receiving special education by disability and by race and ethnicity. A state summary of racial/ethnic minorities in special education is included in the appendices (**Appendix A**).

RECOMMENDATION 2

Encourage cross-disciplinary training for all teachers in the identification of students for special education services.

The Board of Education's *Virginia Licensure Regulations for School Personnel*, at 8 VAC 20-21-120 (Professional studies requirements), specify that coursework related to initial licensure must include information leading to an understanding of the characteristics and the instruction of children with disabilities. The Superintendent of Public Instruction has issued a Superintendent's Memorandum that will encourage the inclusion of such information in professional development opportunities for licensed teachers currently in the classroom.

It is also to be noted that the department, in collaboration with the College of William & Mary, is in the process of finalizing cultural competency training material that will be used for training school division personnel. This material will also be made available for use by teacher training programs in institutions of higher education. It is anticipated that the training will be available in the spring of 2002.

RECOMMENDATION 3

Report to the Governor and the 2002 General Assembly concerning the dissemination of information to parents of students who have been identified for or placed in special education programs of their legal rights under the Individuals with Disabilities Education Act, Public Law No. 101-17, as amended and state special education laws, including the right to withdraw their children from special education programs at any time during the process.

The Board of Education revised state special education regulations in October, 2000. Based upon these new regulations, a document entitled *Virginia Special Education Procedural Safeguard Requirements Under the Individuals with Disabilities Education Act*, which includes a statement of the right to withdraw consent for placement in special education, has been disseminated to all school divisions. State and federal regulations require that this document be submitted to parents whenever recommendations requiring parental consent are being made. Additionally, a parent handbook, entitled a *Parents Guide to Special Education*, is being revised to incorporate the revised regulations. The handbook, expected to be available to parents, school divisions, and Parent Resource Centers by December, also contains this provision.

RECOMMENDATION 4

Report to the Governor and the 2002 General Assembly concerning the status of the implementation of the State Improvement Plan for Special Education, and concerning Virginia's compliance with the 1997 Amendments to the Individuals with Disabilities Education Act, Public Law No. 101-17, as amended, which requires all states to: "(i) conduct a special education child count by race and ethnicity to determine whether minority students are disproportionately represented in special education programs, (ii) monitor the dropout rate among minority students in special education programs, and (iii) revise policies, procedures, and practices used to identify and place such students to eliminate factors that cause the overidentification and placement of minority students in these programs."

The Board will monitor and report this information to the Governor and the General Assembly beginning in January 2002. The Virginia Department of Education conducts an annual child count of students receiving special education by disability and by race/ethnicity. The department utilizes this information to determine whether individual school divisions report a disproportionate number of minority students in special education. School divisions identified as having possible disproportionate representation of minority students in special education will be so notified. They will be asked to review the division's referral/identification practices, evaluation procedures and placement procedures. They will also be asked to revise as necessary policies and procedures determined to be related to the disproportionate representation. The department will provide technical assistance to divisions to help with this review of local practices and procedures. A copy of the memorandum to be sent to each identified school division is included in the appendices (**Appendix B**). The process used by the Department of Education to identify significant disproportionality is included in the memorandum.

As part of the implementation of the State Improvement Plan, the department will develop a school division profile to identify significant indicators related to student achievement. Disproportionate representation of minorities in special education is one of the indicators in that profile. Further, the department collects annually the number of students with disabilities, by race/ethnic designation, who drop out of school.

RECOMMENDATION 5

Require teachers and guidance counselors to identify appropriate academic and support interventions specific to the educational needs of the child who needs assistance, and to use such approaches in the classroom before referring the child for special education programs and services.

The Board of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, at 8 VAC 20-80-50, require that a child study committee be established in each school to review records and other performance evidence of children referred as demonstrating learning problems. The child study committee is charged with identifying and recommending strategies to address the child's learning, behavior, communication, or development. Guidance from the department regarding best practice for child study committees recommends that referral for special education eligibility be made only after reasonable accommodations within the general education environment have been unsuccessful. It should also be noted that the department is providing financial support for designated schools to pilot Instructional Support Teams. Instructional Support Teams have the same overall purpose as Child Study Committees, but require that staff be devoted to the operation of the teams.

RECOMMENDATION 6

Urge local school divisions that have been identified as having a disproportionate representation of African-American and other minority students in special education programs to establish Parent Resource Centers that would provide a mechanism to aid the school division in communicating with parents, disseminating relevant information to teachers and school staff, generating community involvement and support in the public schools, and apprising parents, educators K through 12, and the community of preventable factors that contribute to the need for special education.

RECOMMENDATION 7

Assist school divisions identified as having a disproportionate representation of African-American and other minority students in special education programs with funding to establish Parent Resource Centers, and continue to fund existing centers in other school divisions.

The department has a strong commitment to providing parent information and training. The improvement of parent involvement is one of the target goals of Virginia's Special Education State Improvement Plan. The department continues to support the development of Parent Resource Centers and includes funds for start-up grants in each budget year. The amount budgeted for the 2001-2002 fiscal year is \$120,000. A list of school divisions that operate Parent Resource Centers is included in the appendices (Appendix C).

RECOMMENDATION 8

Clarify to teachers, administrators, guidance counselors, school psychologists, and other school personnel that students in special education may be reevaluated at any time before the required three-year evaluation of the placement.

RECOMMENDATION 9

Encourage teachers, administrators, guidance counselors, school psychologists, and other school personnel involved in special education programs to notify school authorities of students who no longer require special education programs and services, and who are capable of academic success in the regular educational program, whether or not the mandatory three-year reevaluation has been scheduled.

The Board of Education's *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, at 8 VAC 20-80-54 (evaluation) state clearly that a reevaluation shall be conducted if conditions warrant or if the child's parent, parents, or teacher requests a reevaluation. Department staff members have conducted intense training for school officials on the provisions of these regulations.

The department will develop a reporting format and will utilize that format for use by the Board of Education in reporting to the Governor and the General Assembly the data concerning the overall numbers of minority students enrolled in special education; those school divisions found to have a disproportionate number of minority students in special education; and the dropout rate of special education students by racial/ethnic designation.

APPENDIX A

**Virginia Department of Education
As of December 1, 2000**

Percent of Children Identified by Race/Ethnicity in Each Disability Category

Primary Disability	Total Count	American Indian/Alaskan		Asian/Pacific Island		Hispanic		Black (Non-Hispanic)		White (Non-Hispanic)	
		Count	%	Count	%	Count	%	Count	%	Count	%
Educable Mental Retarded	10,969	9	0.08	141	1.29	334	3.04	5,833	53.18	4,652	42.41
Trainable Mental Retarded	2,303	4	0.17	80	3.47	100	4.34	857	37.21	1,262	54.80
Severe/Profound Disability	1,227	1	0.08	52	4.24	54	4.40	438	35.70	682	55.58
Hearing Impairment	1,522	4	0.26	63	4.14	96	6.31	429	28.19	930	61.10
Speech or Language Impairment	30,876	106	0.34	679	2.20	1,230	3.98	7,090	22.96	21,771	70.51
Visually Impairment	506	2	0.40	18	3.56	20	3.95	137	27.08	329	65.02
Emotionally Disturbed	13,038	35	0.27	99	0.76	401	3.08	4,819	39.96	7,684	58.94
Orthopedic Impairment	853	1	0.12	36	4.22	41	4.81	171	20.05	604	70.81
Other Health Impairment	14,105	25	0.18	137	0.97	322	2.28	3,307	23.45	10,314	73.12
Specific Learn Disability	69,182	166	0.24	1,197	1.73	4,044	5.85	19,033	27.51	44,742	64.67
Deaf-Blindness	7	0	0.00	2	28.57	0	0.00	1	14.29	4	57.14
Multi-Disabilities	2,565	5	0.19	77	3.00	107	4.17	710	27.68	1,666	64.95
Autism	2,242	4	0.18	103	4.59	69	3.08	685	30.55	1,381	61.60
Traumatic Brain Injury	316	0	0.00	4	1.27	15	4.75	84	26.58	213	67.41
Developmental Delay	13,536	23	0.17	234	1.73	656	4.85	5,060	37.38	7,563	55.87

APPENDIX A

**Virginia Department of Education
As of December 1, 2000
Percent of Children Identified by Race/Ethnicity Compared to General Population**

Primay Disability	Total Count	Am. Indian/Alaskan		Asian/Pacific Island		Hispanic		Black (Non-Hispanic)		White (Non-Hispanic)	
		Count	%	Count	%	Count	%	Count	%	Count	%
Special Education	162,616	382	0.23	2,919	1.80	7,482	4.60	48,238	29.66	103,595	63.71
General Population	1,143,805	3,214	0.28	47,410	4.14	55,833	4.88	309,391	27.05	727,957	63.64

APPENDIX B

Memorandum to school divisions identified as having a disproportionate representation of minority students in special education programs

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF EDUCATION
P.O. BOX 2120
RICHMOND, VIRGINIA 23218-2120

Date

TO: Certain Division Superintendents

FROM: H. Douglas Cox, Assistant Superintendent
Division of Instructional Support Services

SUBJECT: Disproportionate Representation of Minorities in Special Education

The Individuals with Disabilities Education Act (IDEA) Reauthorization of 1997 directs states to determine whether significant disproportionality based on race is occurring with respect to the identification of children as children with disabilities, including the identification of children as children with disabilities in accordance with a particular impairment (as defined by federal and state regulations). States are also required to determine whether significant disproportionality based on race is occurring with respect to the placement in particular educational settings of children with disabilities.

In cases where a determination of significant disproportionality has been made, the Department of Education's Office of Special Education and Student Services shall provide for the review of local school division policies and practices used in the identification and placement of students with disabilities. If appropriate, the department may require the revision of local school division policies, procedures, and practices used in such identification or placement to ensure that such policies, procedures, and practices comply with the requirements of IDEA.

As there is no federal definition of "significant disproportionality," states are left to define this for themselves. Virginia has chosen to use a determination similar to one the Office of Civil Rights uses. This will be to compare the number of students and percentage of a racial category in the special education population to the number and percentage of the same racial category in the general population. A tolerance range of 20 percent has been applied to the calculations. An "expected number" of students will be generated and a comparison made. If the actual number of students in a particular racial category or a specific disability category is higher than the expected number, a determination will be made that the number does not fall within the expected range. The Department recognizes that there are many factors involved in the identification of students with disabilities. The Department also recognizes there are many factors involved in examining data, and caution should be applied before arriving at any conclusions about this data.

The Department also recognizes there are flaws in this determination. A very small raw number of special education students might put the percentage of special education students in a racial category over the general education percentage (e.g. literally one student may put the division over the expected range in a particular racial category or disability category). Also, in a large school division, a seemingly large number of students may actually be a very small percentage in a particular racial category or disability category.

Attached are two reports with totals for your school division. The first shows the expected number for each racial category. The second shows the expected number for each disability category, by each race category. After examining the data, please review your local policies related to referral, identification, evaluation and placement and determine why the data exceed the expected number of students in the racial categories or disability categories indicated.

In the near future, the Department of Education will disseminate by separate memorandum the steps school divisions should take in addressing any disproportionate totals you may have, particularly in individual disability areas. This plan should address not only the division's referral, evaluation, placement procedures but also the program options available in your division. Even though you are addressing data on students with disabilities, it is expected that general education staff will be primarily involved in the plan for correcting any disproportionate situations. This communication will also include technical assistance materials that will help you in developing your plan for addressing disproportionality.

If you have any questions on this matter, please contact Mr. Paul J. Raskopf, Office of Special Education and Student Services, Department of Education, P.O. Box 2120, Richmond, VA 23218, at 804-225-2080, or by e-mail at praskopf@mail.vak12ed.edu.

APPENDIX C

PARENT RESOURCE CENTERS IN VIRGINIA

Alexandria	Newport News
Alleghany County/Covington	Norfolk
Arlington	Orange County
Brunswick County	Page County
Caroline County	Piedmont Regional
Chesapeake	(Albemarle/Charlottesville/Fluvanna/Greene/ Nelson)
Chesterfield County	Poquoson
Colonial Heights	Powhatan County
Culpeper	Prince George County
Fairfax	Prince William County
Franklin County	Pulaski County
Frederick County	Radford City
Giles County	Richmond City
Goochland County	Roanoke City
Hampton	Roanoke County
Hanover County	Russell County
Henrico County	Salem City
Henry County	Smyth County
Hopewell	Spotsylvania County
King George County	Stafford County
Lexington/Buena Vista/Rockbridge County Regional	Suffolk City
Loudoun County	Virginia Beach
Lynchburg	Williamsburg/James City County
Madison County	Wise County
Montgomery County	York County

**PARENT RESOURCE CENTER APPLICANTS FOR FALL '01 FUNDING
(as of September 14, 2001)**

**Augusta County
Staunton
Waynesboro
Bedford
Fredericksburg
West Point**

HOUSE JOINT RESOLUTION NO. 640

Requesting the Board of Education to review, consider and address certain recommendations of the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs.

Agreed to by the House of Delegates, February 6, 2001

Agreed to by the Senate, February 21, 2001

WHEREAS, upon the recommendation of the Joint Subcommittee Studying the Status and Needs of African-American Males in Virginia, a joint subcommittee was created pursuant to House Joint Resolution No. 707 (1999), to conduct a comprehensive and thorough inquiry into the overrepresentation of African-American students in special education programs in Virginia, and to identify factors contributing to the problem and potential solutions to remedy the dilemma; and

WHEREAS, the resulting study conducted by the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs, pursuant to House Joint Resolution No. 231 (2000), entailed numerous hours of travel across the Commonwealth to visit special education classes, talk with special education students and their parents, consult with regular and special education teachers, division superintendents, school administrators, guidance counselors, school psychologists and a range of educational, medical and other experts in the field; and

WHEREAS, the joint subcommittee was the beneficiary of the technical assistance of several Virginians recognized nationally for their work and expertise in special education, and the considerable talents of the staff of the Department of Education; the Medical College of Virginia, Health Sciences Division of Virginia Commonwealth University; and the Council for Exceptional Children; and

WHEREAS, the joint subcommittee also received testimony from representatives of local school divisions, reviewed an extensive and exhaustive literature search concerning issues pertinent to its deliberations, and was assisted by the United States Department of Education's Office for Civil Rights relative to their compliance reviews of several school divisions; and

WHEREAS, it was determined that, nationally, a disproportionate number of African-American students are found in special education programs for the educable mentally retarded, the emotionally disturbed and behavioral disordered and the learning disabled; and

WHEREAS, however, the data indicate that in Virginia, a disproportionate number of males, regardless of race, are in special education programs, and that African-American students are disproportionately represented in programs for the educable mentally retarded, and that significant numbers of African Americans, particularly males, are found in programs for the emotionally disturbed; and

WHEREAS, the joint subcommittee agrees that there is a need for continuous professional staff development for all school personnel involved in the special education process, especially relating to the cultural diversity competency skills; and

WHEREAS, in Virginia, although the data indicate that the representation of African-American students in special education programs varies among school divisions for many reasons, some which cannot be quantitatively measured, several school divisions have been identified as needing to evaluate their special education programs, giving particular attention to the number of African-American students identified for special education in the school division; and

WHEREAS, it is the consensus of the joint subcommittee that these school divisions will need substantial and intensive technical assistance to review the process by which such students are referred, identified, assessed, placed, and reevaluated for special education programs; and

WHEREAS, these school divisions would benefit from the establishment of Parent Resource Centers and from technical assistance to help them provide and improve appropriate intervention and support services before students are referred for special education, and better parent and community outreach activities, in order to focus resources to more effectively serve disabled students; and

WHEREAS, a number of findings relate to professional staff development, inadequate funding and resources, parental involvement and understanding of the process and their legal rights, certain school practices, and social, economic, and cultural dynamics that converge to influence the overrepresentation of African-American students in special education; and

WHEREAS, the joint subcommittee fears that if the misidentification and inappropriate placement of African-American and other minority students in special education programs continues unabated, the tragedy will be the crippling of inquisitive minds, wasted talents and gifts, and the evisceration of the spirits of a generation of African-American and other minority children; and

WHEREAS, the joint subcommittee agreed that this problem must be resolved with the collaborative and cooperative action of the education community, state and local human services agencies, community organizations, institutions of higher education, professional associations of multiple disciplines, parents, advocates for children and youth, and other interested persons, and that certain of the recommendations may only be effected through the leadership and initiative of the Board of Education; and

WHEREAS, the joint subcommittee transmits the recommendations relating to the public schools to the Board of Education, requesting deliberate and prompt response to alleviate the disproportionate representation of African-American and other minority students in special education programs; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Board of Education be requested to review, consider and address certain recommendations of the Joint Subcommittee Studying the Overrepresentation of African-American Students in Special Education Programs. The joint subcommittee recommends that the Board of Education:

1. Monitor the identification and placement of African-American and other minority students in special education and report its findings annually to the Governor and the General Assembly, beginning January 2002 through January 2004;
2. Encourage cross-disciplinary training for all teachers in the identification of students for special education services;
3. Report to the Governor and the 2002 General Assembly concerning the dissemination of information to parents of students who have been identified for or placed in special education programs of their legal rights under the Individuals with Disabilities Education Act, Public Law No. 101-17, as amended, and state special education laws, including the right to withdraw their children from special education programs at any time during the process;
4. Report to the Governor and the 2002 General Assembly concerning the status of the implementation of the State Improvement Plan for Special Education, and concerning Virginia's compliance with the 1997 Amendments to the Individuals with Disabilities Education Act, Public Law No. 101-17, as amended, which requires all states to "(i) conduct a special education child count by race and ethnicity to determine whether minority students are disproportionately represented in special education programs, (ii) monitor the dropout rate among minority students in special education programs, and (iii) revise policies, procedures, and practices used to identify and place such students to eliminate factors that cause the over identification and placement of minority students in these programs;"
5. Require teachers and guidance counselors to identify appropriate academic and support interventions specific to the educational needs of the child who needs assistance, and to use such approaches in the classroom before referring the child for special education programs and services;
6. Urge local school divisions that have been identified as having a disproportionate representation of African-American and other minority students in special education programs to establish Parent Resource Centers that would provide a mechanism to aid the school division in communicating with parents, disseminating relevant information to teachers and school staff, generating community involvement and support in the public schools, and apprising parents, educators K through 12, and the community of preventable factors that contribute to the need for special education;
7. Assist school divisions identified as having a disproportionate representation of African-American and other minority students in special education programs with funding to establish Parent Resource Centers, and continue to fund existing centers in other school divisions;

8. Clarify to teachers, administrators, guidance counselors, school psychologists, and other school personnel that students in special education programs may be reevaluated at any time before the required three-year reevaluation of the placement; and

9. Encourage teachers, administrators, guidance counselors, school psychologists, and other school personnel involved in special education programs to notify school authorities of students who no longer require special education programs and services, and who are capable of academic success in the regular educational program, whether or not the mandatory three-year reevaluation has been scheduled.

All agencies of the Commonwealth shall provide assistance as requested by the Board of Education to address the recommendations herein.

The Board of Education shall complete its work in time to submit its findings and recommendations to the Governor and the 2002 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

