

**Report on the
Recommendations of the
Virginia Disability Commission
2011**

Disability Commission Members

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BACKGROUND

The Virginia Disability Commission is the legislative body charged with identifying and recommending legislative priorities and policies for adoption or examination by the General Assembly in order to provide ongoing support in developing and reviewing services and funding related to Virginians with physical and sensory disabilities. Section 30-232 of the *Code of Virginia* provides that the Commission shall submit its recommendations to the General Assembly and the Governor by October 1 of each year.

In 2011, the Disability Commission established three work groups, focusing on issues related to (i) housing and transportation, (ii) education and employment, and (iii) publicly funded services. Each work group met three times during the 2011 interim, and the full Disability Commission met four times during the 2011 interim to receive information about the needs of and issues affecting people with physical and sensory disabilities, receive and evaluate recommendations for legislative and budgetary actions to support and improve the system of services for Virginians with physical and sensory disabilities, and develop recommendations and proposals for submission to the General Assembly and the Governor, as required by § 30-232. The Disability Commission recommends that these work groups be established in statute and that the *Code of Virginia* be amended to make clear that the Disability Commission may establish such work groups as it deems necessary to assist the Commission in carrying out its statutory powers and duties.

RECOMMENDATIONS

- 1. The Disability Commission should support legislation to establish the Disability Commission's work groups in statute. The new language should specifically require work groups focused on Housing and Transportation, Education and Employment, and Publicly Funded Services, as well as other work groups as may be needed, and should require the work groups to solicit input from stakeholders regarding problems and potential solutions. The work group noted that this would provide a "home" for specific topics related to services for persons with physical and sensory disabilities.**

At the beginning of the 2011 interim, the Virginia Disability Commission established three work groups focusing on issues related to (i) housing and transportation, (ii) education and employment, and (iii) publicly funded services. The work groups were composed of legislative and citizen members of the Disability Commission as well as representatives of executive branch agencies and private and nonprofit entities, citizens, and other stakeholders who worked cooperatively to identify needs of and issues affecting persons with physical and sensory disabilities in the Commonwealth and to develop proposals for legislative action to meet needs, resolve issues, and support and improve the system of services for Virginians with physical and sensory disabilities. The work groups reported regularly to the full Disability Commission on their activities, conclusions, and proposals. It is the belief of the Disability Commission that the work groups provided a forum in which representatives of the legislative and executive branches of state government, private and nonprofit entities, citizens and stakeholders could work collaboratively to develop effective solutions to very real problems affecting Virginians with physical and sensory disabilities and improve the quality of services available in the

Commonwealth. The Disability Commission further believes that establishing these work groups in statute and authorizing the Disability Commission to establish additional work groups in the future will allow the Commission to more effectively and efficiently carry out its statutory purpose.

- 2. The Disability Commission should request that legislation should be prepared to authorize local school divisions to transfer assistive technology that has been customized for students with disabilities to those students, their families, or other school divisions when the student graduates, ages out of public education, or transfers to another school division. The legislation should be modeled on the Texas assistive technology transfer statute.**

Assistive technology can help students with disabilities participate in a meaningful way in the free and appropriate public education to which they are entitled by allowing access to the general education curriculum and settings, providing opportunities for active participation with peers, and facilitating progress toward educational goals. Assistive technology can also have a significant positive impact on independence, self-expression, self-esteem, and overall quality of life of a student with disabilities.

Assistive technology devices available to students include "any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability." 34 CFR § 300.5. Federal law requires individualized education program teams to consider whether a child with a disability requires assistive technology devices and services. When assistive technology devices or services are required, school divisions must provide the devices. Assistive technology devices purchased by a school division for a student may be customized in a manner intended to meet the student's specific needs.

In many cases, according to testimony received by the Disability Commission during the 2010 interim, when a student graduates from or ages out of public education, assistive technology devices customized for that student are not appropriate for use by other students. This may be because of the age of the device or the alterations made to the device in order to customize it for a particular student's use. At the same time, many students who graduate from or age out of public education are comfortable with and reliant upon the assistive technology device that has been customized for their use. Losing access to the device upon graduation or aging out of public education may have negative impacts on the student. To address these problems, stakeholders suggested that the Disability Commission conduct a study of options for establishing a process whereby assistive technology devices could be transferred by a school division to a another school division to which a student transfers, to a public agency providing services to the student upon graduation or aging out of public education, or to the student's parents or the student.

During the 2011 interim, the Disability Commission's Education and Employment Work Group studied options for establishing a process whereby Virginia school divisions could transfer assistive technology devices to other school divisions, public agencies providing services to the student upon graduation or aging out of public education, or to the student's parents or the student and recommended introduction of legislation during the 2012 Session of the General Assembly to implement certain changes to the laws of the Commonwealth to allow such transfers. The Disability Commission recommends that legislation to accomplish this goal

be introduced during the 2012 Session of the General Assembly. The draft legislation will allow school divisions to sell, lease, or loan assistive technology devices purchased by the school division for the purpose of ensuring continued access to and use of the device by a child with a disability. The school division may transfer assistive technology to another school division when the student transfers to that division; to a state agency providing services to the student following the student's graduation from or aging out of the division's special education program; or to the student's parents or the student, if the student is aged 18 or older and has capacity to enter into a contract. The legislation will direct the Department of Education, in cooperation with stakeholders, to develop guidelines to govern the transfer of assistive technology.

- 3. The Disability Commission should support inclusion of language in the appropriation act making an additional \$10.1 million available to the Department of Rehabilitative Services to ensure that the Department is able to meet federal matching requirements for the vocational rehabilitation program and eliminate the current waiting list for services. If the Governor does not include funding for the Department of Rehabilitative Services to meet federal matching requirements for the vocational rehabilitation program, the Disability Commission should request an amendment to the appropriation act to make such funding available to the Department.**

The Department of Rehabilitative Services' Vocational Rehabilitation program provides services to people with disabilities to assist them in achieving or maintaining employment. The program is funded by a blend of federal and state funds, with the state receiving \$3.59 in federal funds for every \$1 in state funds allocated to the program. For Fiscal Years 2012 and 2013, federal funds totaling approximately \$61 million are available to the Commonwealth for the Vocational Rehabilitation program. To secure the full amount of federal funding available, the Department of Rehabilitative Services must provide \$17 million in state matching funds. However, based on information made available to the Disability Commission over the course of several meetings this summer, the Department predicts that it will not be able to meet the full match requirement. Due to funding cuts, the Department expects to experience a \$10.1 million shortfall in each fiscal year. At the same time, the Department reports that demand for services provided through the Vocational Rehabilitation program is increasing. Between 2009 and 2010, the number of Vocational Rehabilitation program cases increased from just over 29,000 cases to slightly more than 32,000 cases, the largest number of cases in the program's history. This growth has resulted in a waiting list for services. In August, the Department stated that over 2,300 individuals were waiting for services through the Vocational Rehabilitation program. This number is expected to reach at least 5,000 individuals waiting for services by the end of 2011.

It is the Disability Commission's belief that an appropriation of an additional \$10.1 million to the Department of Rehabilitative Services to support the Vocational Rehabilitation program in each of the biennium will allow the Department to eliminate waiting lists for Vocational Rehabilitation services and provide Vocational Rehabilitative services to all qualifying individuals. This allocation will allow the Department to secure the maximum amount of federal funds available for the Vocational Rehabilitation program, thereby allowing the Commonwealth to fully leverage available resources.

The Disability Commission recommends inclusion of language in the 2012 Appropriation Act to provide \$10.1 million in each year of the biennium from the general fund to the Department of Rehabilitative Services to restore the Department's Vocational Rehabilitation Services funding to levels comparable to Fiscal Year 2007 and Fiscal Year 2008.

- 4. The Disability Commission should support inclusion of language in the appropriation act providing funding to the Virginia Office for Protection and Advocacy (approximately \$200,000 to \$250,000) to add 2.5 FTEs for the Office's ombudsman program established pursuant to § 51.5-39.7 of the *Code of Virginia*. Such language should make clear that the Virginia Office for Protection and Advocacy must provide ombudsman services to the extent allowed by available funding, but that once appropriated resources have been exhausted, the Office is not obligated to operate the ombudsman service. The language should also include a requirement that the Office collect information about the number and type of cases handled and the sufficiency or insufficiency of funding appropriated to meet the need for services.**

Chapter 572 of the Acts of Virginia of 2002 added § 51.5-39.7, establishing an ombudsman section within the Virginia Office for Protection and Advocacy, to the *Code of Virginia*. This section requires the Director of the Office to establish procedures for receiving complaints and conducting investigations for the purpose of resolving and mediating complaints regarding any activity, practice, policy or procedure of any hospital, facility or program operated, funded, or licensed by the Department of Behavioral Health and Developmental Services, Department of Rehabilitative Services, Department of Social Services, or any other state or local agency, that is adversely affecting the health, safety, welfare, or civil or human rights of any person with mental, cognitive, sensory or physical disabilities. Section 51.5-39.7 further provides that the ombudsman shall attempt to resolve complaints at the lowest appropriate level, unless otherwise provided by law, and that the ombudsman may decline to accept any complaint it determines to be frivolous or not made in good faith after initial investigation. This section directs the Office to publicize the existence, functions and activities of the ombudsman and the procedures for filing a complaint with the ombudsman. Such information must be sent, in written format, to each provider of services to persons with disabilities, and must include instructions to the provider that the information is to be posted in a conspicuous place accessible to patients, residents, consumers, clients, visitors and employees. The Office is further directed to establish, maintain and publicize a toll-free telephone number for receiving complaints. Chapter 572 (2002) provided that the requirements of § 51.5-39.7 shall become effective by July 1, 2004.

Despite inclusion of language requiring the Virginia Office for Protection and Advocacy to establish and maintain an ombudsman section in the *Code of Virginia* in 2002, no funding has been provided to the Office to support the program and as a result, no ombudsman service has been established at this time. In 2004, Item 527 of the Appropriation Act provided "notwithstanding the provisions of § 51.5-39.7 ... the implementation date for establishing an ombudsman section in the Virginia Office for Protection and Advocacy is deferred until July 1, 2006." Similar language in the Appropriations Acts of 2006, 2008, and 2010 has further deferred establishment of the program. According to the Virginia Office for Protection and Advocacy, the lack of funding for the ombudsman program established in § 51.5-39.7 prevents Virginians with

disabilities from accessing a program specifically designed to address their concerns about disability-related services.

In August of 2011, the Disability Commission's Publicly Funded Services Work Group proposed and the Disability Commission voted to adopt a recommendation that the Disability Commission request funding to establish a pilot ombudsman program in the Virginia Office for Protection and Advocacy. It is the recommendation of the Disability Commission that funds appropriated for this purpose would allow the Office to create 2.5 additional full-time equivalent staff positions to provide ombudsman services. The Disability Commission further proposes that the proposed pilot program should provide the services described in § 51.5-39.7 of the *Code of Virginia*, but only to the extent possible given available resources and that the Virginia Office for Protection and Advocacy should be required to collect and report to the General Assembly and the Governor data on the number of complaints received, the number of complaints declined after initial investigation, the number of complaints accepted for further investigation, the nature of those complaints, the services provided, and the outcome of those complaints no later than September 30, 2014. It is the belief of the Disability Commission that a program of this nature will allow Virginians with disabilities to access a program specifically designed to address their concerns about disability-related services, as described by language in § 51.5-39.7 adopted by the General Assembly in 2002, while also providing for the collection of data and information that will reveal the nature and extent of the need for such services.

The Disability Commission recommends inclusion of language in the 2012 Appropriation Act to provide \$250,000 in each year of the biennium from the general fund to the Virginia Office for Protection and Advocacy to establish a pilot ombudsman program providing services described in § 51.5-39.7 of the *Code of Virginia* and requiring the Virginia Office for Protection and Advocacy to collect and report to the General Assembly and the Governor data and information regarding the scope and nature of services provided not later than September 30, 2014.

5. The Disability Commission should support inclusion of language in the appropriation act providing funding to reestablish the Consumer Services Fund, the fund of last resort for people with disabilities in need of financial assistance with securing assistive technology and related services.

The Consumer Services Fund (CSF) was established in 1992, following a recommendation from the Virginia Disability Commission, and administered by the Department of Rehabilitative Services. In 2003, the Assistive Technology Loan Fund Authority assumed program administration and provided staffing and overall program delivery. From its initial funding in 1993 through 2007, the CSF helped Virginians with physical or sensory disabilities who needed assistive technology devices but were unable to afford those devices and were unable to obtain assistance through other public or private programs. Individuals seeking assistance from the CSF were required to demonstrate that they had exhausted all other possible sources of funding. Funds granted to recipients were used to purchase diverse assistive technology devices including home accessibility modifications, vehicle modifications, hearing aids, and other devices to assist in employment, education and community integration outcomes. Rules governing awards of CSF funding did not establish any minimum for the amount of grants. However, the rules did establish a \$20,000 maximum for home modifications and \$15,000 maximum for vehicle modifications. In many cases, funds received from the CSF allowed

individuals with physical and sensory disabilities to fully access and utilize assistive technology made available through other sources.

Between 1993 and 2003, the CSF received \$600,000 in general funds annually from the Commonwealth. In 2004, the CSF appropriation was reduced to \$473,394. In 2007, the General Assembly cut all funding to the CSF. During the final two years of the CSF, the program received 468 applications for assistance (249 in 2006, 219 in 2007), approved 192 applications (90 in 2006, 102 in 2007), and awarded a total of \$829,888.27 in grants to individuals with physical and sensory disabilities needing assistive technology devices (\$409,447.44 in 2006, \$420,440.83 in 2007). With the elimination of the CSF in 2007, many individuals who might have qualified for grants have sought assistance elsewhere. Centers for Independent Living, which provide assistance and advocacy for individuals with disabilities, report that more than 1,600 consumers have contacted their offices, requesting approximately \$3.5 million in assistance to help them acquire assistive technology devices. During the same period, the Assistive Technology Loan Fund Authority, which provides loans to qualifying individuals in need of assistance with the purchase of assistive technology devices, declined to provide loans for approximately 100 individuals who failed to qualify due to high debt-to-income ratios. Individuals seeking assistance from Centers for Independent Living and individuals denied assistance from the Assistive Technology Loan Fund are individuals who may have qualified for assistance from the CSF, had the CSF been available.

It is the Disability Commission's belief that providing funding to reestablish the CSF will meet a serious and currently unmet need among citizens of the Commonwealth, and will help citizens who receive grants maximize their participation in education, employment, and community activities. Moreover, the CSF offers the opportunity for the Commonwealth to leverage dollars spent to assist individuals with physical and sensory disabilities by allowing for the blending of funds provided by public and private entities. In many cases, small grants provided by the CSF allow individuals to access and fully utilize funding and technologies made available by other sources.

The Disability Commission recommends inclusion of language in the 2012 Appropriation Act to provide \$400,000 in each year of the biennium from the general fund to the Assistive Technology Loan Fund Authority to reestablish and re-fund the Consumer Services Fund to provide grants for individuals in need of financial assistance to access necessary assistive technology devices. Further, the Disability Commission recommends that language included in the appropriation act should stress the need to give priority to consumers in need of financial assistance for the purchase of assistive technology to facilitate the individual's transition from a nursing home or institution to a community-based living situation.

6. The Disability Commission should support inclusion of language in the appropriation act providing \$6.5 million in each year of the biennium to the Department of Rehabilitative Services to restore funding and eliminate waiting lists for brain injury services.

Over the course of several meetings in 2010 and 2011, the Disability Commission received information regarding gaps in services for individuals with brain injuries and long waiting lists for existing services. The Commission also received information about the need for funding to (i) eliminate waiting lists and add core services including adult and pediatric case management, clubhouses/day programs, and regional resource coordination in underserved areas;

(ii) build capacity for and streamline and modernize delivery of case management for services delivered through state-funded brain injury programs; (iii) conduct brain injury surveillance, outreach, and consultation services; (iv) enhance the Personal Assistance Services for people with Brain Injury program and expand the Brain Injury Discretionary Services Fund; (v) create a discharge assistance fund for consumers who transfer from institutional to community-based settings; and (vi) develop publicly funded, in-state neurobehavioral treatment options. It is the Commission's belief that these services are necessary and that providing such services will contribute to the well-being of the citizens of Virginia. The Disability Commission recommends inclusion of language in the appropriation act providing \$6.5 million in each year of the biennium to the Department of Rehabilitative Services to restore funding and eliminate waiting lists for brain injury services.

7. The Disability Commission should support inclusion of language in the appropriation act providing \$800,000 in each year of the biennium to the Department of Rehabilitative Services to eliminate waiting lists for community rehabilitation case management services.

Section 51.5-9.1 of the *Code of Virginia* designates the Department of Rehabilitative Services as the state agency responsible for coordinating rehabilitative services for persons with functional and central nervous system disabilities. The Department is charged with providing for the comprehensive assessment of the need for rehabilitative and support services for persons with functional and central nervous system disabilities, identifying gaps in services, promoting interagency coordination, developing models for case management, and advising the Secretary of Health and Human Resources, the Governor, and the General Assembly on programmatic and fiscal policies and the delivery of services to such persons.

The Department's Community Rehabilitation Case Management Services (CRCMS) program eliminates, reduces, or prevents economic and personal dependency by assisting people with severe physical and sensory disabilities to build a quality of life of their choosing. Using self-directed support and community resources, CRCMS Rehabilitation Specialists match an individual's rehabilitative needs with appropriate service and supports in the community to achieve personal goals. Case management services involve a collaborative process with individuals, family members, rehabilitation specialists, and other community partners that allows for access and coordination of needed services. These services often make the difference between a client being able to stay in his home and the placement of that client in an institutional setting.

The CRCMS program started in 1989 as a result of a recommendation of the Disability Commission. The program's eight Rehabilitation Specialists provide services each year to approximately 500 individuals with complex and challenging arrays of service needs. Currently, 83 individuals are waiting for services through the CRCMS program. The addition of two Rehabilitation Specialists/Case Managers would allow the Department to eliminate the current waiting list. According to information submitted to the Disability Commission by the Department of Rehabilitative Services, the cost of adding two additional Rehabilitation Specialists/Case Managers would be \$150,000 in each year of the biennium.

It is the Disability Commission's belief that these services are necessary and that providing such services will contribute to the well-being of the citizens of Virginia. The Disability Commission recommends inclusion of language in the 2012 Appropriation Act

providing \$150,000 in each year of the biennium to the Department of Rehabilitative Services to enable the Department to hire two additional Rehabilitation Specialists/Case Managers for the Community Rehabilitation Case Management Services program to eliminate the waiting list for services provided through that program.

8. The Disability Commission should support inclusion of language in the appropriation act providing \$150,000 in each year of the biennium to the Department of Rehabilitative Services to eliminate waiting lists for personal assistance services.

The Department of Rehabilitative Services' Personal Assistance Services (PAS) programs serve individuals who have the most severe disabilities and who require assistance from another person to perform nonmedical activities of daily living in order to continue to live independently in their homes. These programs include the state-funded PAS program, the PAS program for individuals with Brain Injury (Brain Injury PAS), and the Vocational Rehabilitation PAS program for individuals who are receiving vocational rehabilitation services for employment. In many cases, the provision of PAS services enables another member of the disabled person's family to continue to be employed. Services that a consumer may purchase through the PAS program include assistance with transferring, bathing, eating, dressing, or other activities that the individual might perform himself but for his physical disability. The Department reports that the average annual expenditure per consumer receiving services through one of the Department's PAS programs is \$17,920.

In Fiscal Year 2011, the Department of Rehabilitative Services served 116 consumers through the state-funded PAS program, six consumers through the Brain Injury PAS program, and 41 consumers through the Vocational Rehabilitative PAS program. In total, the PAS programs provided over 200,000 hours of personal assistance to individuals with severe disabilities. These services enabled 16 consumers to attend colleges and universities, and 51 consumers to remain employed.

Currently, the Department of Rehabilitative Services is not accepting new clients for PAS services. This freeze on admissions to the PAS programs is a result of a lack of funding for services. As of September 2011, 46 persons were on the waiting list for PAS programs. However, the Department and the Directors of the Centers for Independent Living report that there may be many other individuals who need services but have not yet applied due to the current freeze on admissions to these programs.

It is the Disability Commission's belief that personal assistance services are necessary services and that providing such services will contribute to the well-being of the citizens of Virginia. The Disability Commission recommends inclusion of language in the 2012 Appropriation Act providing \$800,000 in each year of the biennium for the Department of Rehabilitative Services to eliminate the waiting list for the Department's personal assistance services programs.

9. The Disability Commission should support inclusion of language in the appropriation act providing \$636,866 in each biennium to the Department of Rehabilitative Services to restore funding for Centers for Independent Living and provide funding to establish new Centers for Independent Living and maintain existing satellite Centers for Independent Living in the Commonwealth.

Section 51.5-23 of the *Code of Virginia* authorizes the Department of Rehabilitative Services to make grants or enter into contracts for the purpose of promoting a philosophy of independent living for persons with disabilities that is characterized by consumer control, peer support, self-help, self-determination, equal access, and individual and system advocacy in order to maximize leadership, empowerment, independence, and productivity for individuals with disabilities and the integration and full inclusion of individuals with disabilities into the mainstream of society. Services provided through these grants or contracts include advocacy, peer counseling, independent living skills training, and information and referral as well as other services deemed necessary by the local consumer base. Services are provided through centers for independent living, which are funded in whole or in part by grants from or payments pursuant to contracts with the Department of Rehabilitative Services. Currently there are 16 centers for independent living in the Commonwealth and four satellite centers for independent living.

In Fiscal Year 2012, funding for centers for independent living was cut by 7.5 percent. As a result, centers for independent living were forced to cut services and reduce the number of individuals served. According to the Virginia Association of Centers for Independent Living, budget cuts and cuts in services substantially impact individuals who require independent living services to remain in their homes rather than residing in nursing homes or other institutions. Budget cuts also negatively affect the ability of centers for independent living to provide technical assistance to local governments and other entities that are working to comply with the Americans with Disabilities Act and other disability rights requirements.

It is the Disability Commission's belief that services provided by centers for independent living are necessary services and that ensuring the availability of such services will contribute to the well-being of the citizens of Virginia. The Disability Commission recommends inclusion of language in the 2012 Appropriation Act providing \$636,866 in each year of the biennium to the Department of Rehabilitative Services for centers for independent living. This should include \$306,866 in each year to restore funding for centers for independent living to the level of funding available in 2010, \$250,000 in each year to allow for the establishment of two new centers for independent living in Petersburg and the New River Valley, and \$80,000 in each year to maintain funding for two satellite centers for independent living in Loudoun County and the Middle Peninsula to ensure that centers for independent living and independent living services are available statewide.

RECOMMENDATIONS CONSIDERED BUT NOT ADOPTED

During the 2011 interim, the Disability Commission considered but did not adopt two additional recommendations. These included:

- 1. Legislation to increase the amount available for tax credits under the Livable Home Tax Credit and to provide incentives through the Livable Home Tax Credit for housing that is directly accessible to a transportation system that would meet the transportation needs of individuals with physical and sensory disabilities.**

The Livable Home Tax Credit provides a tax credit for the purchase of each new residence or the construction of each new residential structure or unit or the retrofitting or renovation of each existing residence or residential structure or unit, provided that the new

residence or the retrofitting of the existing residence is designed to improve accessibility, provide universal visitability, and comply with the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. In 2010, the Disability Commission recommended legislation increasing the amount of the tax credit from \$2,000 to \$5,000, and making the tax credit available to a licensed contractor who constructs or retrofits or renovates a residential unit, provided the new residential structure or unit or the retrofitting or renovating of the existing residential structure or unit is designed to improve accessibility, to provide universal visitability, and comply with the eligibility requirements established by guidelines developed by the Department of Housing and Community Development. The General Assembly adopted legislation making these changes during the 2011 Session.

During the 2011 interim, the Disability Commission's Housing and Transportation Work Group discussed options for further increases in the amount of the tax credit and options for making the tax credit available to individuals who construct, retrofit, or renovate residential units that are designed to improve accessibility, provide universal visitability, and comply with guidelines developed by the Department of Housing and Community Development, and are in a location that is directly accessible to a transportation system that would meet the transportation needs of individuals with physical and sensory disabilities. After much discussion, the work group recommended that the Disability Commission study the issue during the 2012 interim and develop concrete legislative proposals to implement these goals. The Disability Commission will continue to study options for increasing the amount of the Livable Home Tax Credit and options for making the tax credit available to individuals who construct, retrofit, or renovate residential units that are designed to improve accessibility, provide universal visitability, and comply with guidelines developed by the Department of Housing and Community Development, and are in a location that is directly accessible to a transportation system that would meet the transportation needs of individuals with physical and sensory disabilities, and will take further action regarding this recommendation in 2012.

2. Legislation to amend the *Code of Virginia* to include special education teachers for students who are blind or vision impaired in the Standards of Quality and to establish caseload standards for such teachers, and to add language in the appropriation act to eliminate funding to the Department for the Blind and Vision Impaired to pay for special education teachers for students who are blind or vision impaired and to provide funding to the Department of Education to pay such teachers.

State funding for special education teachers for students who are blind or vision impaired is appropriated to and administered by the Department for the Blind and Vision Impaired, which allocates available funding to special education teachers for students who are blind and vision impaired throughout the state. According to information received by the Disability Commission during the 2011 interim, the current state appropriation for special education teachers for students who are blind and vision impaired is \$509,000. This funding has remained level for several years, despite the fact that the number of students identified as blind or vision impaired has increased from 486 on December 1, 2006, to 618 on December 1, 2011. During the 2010-2011 school year, 166 teachers provided special education services for students who were blind and vision impaired.

State funding for special education teachers for students who are blind and vision impaired, which is allocated to and administered by the Department for the Blind and Vision

Impaired, is separate from the Standards of Quality funding calculations for students with disabilities. According to information made available to the Disability Commission by the Department of Education, Standards of Quality funds are included in Direct Aid to Public Education appropriations. Special education for students who are blind or visually impaired is the only disability category that is not addressed in the Standards of Quality funding included in the Direct Aid to Public Education appropriation.

At its first meeting of the 2011 interim, the Disability Commission was informed of the current system for funding special education teachers for students who are blind and vision impaired and was asked to consider amending the *Code of Virginia* to include special education teachers for students who are blind and vision impaired in the Standards of Quality funding calculations. Based on information and testimony received by the Disability Commission's Education and Employment Work Group during a series of meetings, including special education teachers for students who are blind and vision impaired in the Standards of Quality funding calculation would require establishing caseload ratios for special education teachers for students who are blind and vision impaired, determining the number of teachers required to comply with those caseload ratios, and providing funding to employ the required number of teachers.

The Department of Education determined that the estimated state share of the cost of including special education teachers for students who are blind and vision impaired in the Standard of Quality funding calculations would be \$4,439,240. Amounts made available to localities for special education teachers for students who are blind and vision impaired from this appropriation would have to be matched by localities according to the locality's composite index local ability-to-pay. The total cost determined by the Department of Education is based on caseload ratios of 10 students for every teacher in the self-contained model with an aide, 8 students for every teacher in the self-contained model without an aide, and 24 students for each teacher in the resource model.

At the Disability Commission's third meeting of the 2011 interim, the Education and Employment Work Group noted that it was considering a recommendation that special education teachers for students who are blind and vision impaired be included in the Standards of Quality funding calculations, but that no decision had been made at that time. At the last meeting of the 2011 interim, the Disability Commission decided not to include a recommendation that special education teachers for students who are blind and vision impaired be included in the Standards of Quality funding calculation. This issue will remain on the Disability Commission's work plan for the 2012 interim for further evaluation and consideration.