



COMMONWEALTH of VIRGINIA

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November 1, 2026

The Honorable L. Louise Lucas Chair, Senate
Finance and Appropriations General
Assembly Building, Room 1404
201 North 9th Street
Richmond, VA 23219

The Honorable Luke Torian Chair, House
Appropriations General Assembly Building,
Room 1223
201 North 9th Street
Richmond, VA 23219

The Honorable Barbara A. Favola Chair,
Senate Education and Health General
Assembly Building, Room 509
201 North 9th Street
Richmond, VA 23219

The Honorable Sam Rasoul Chair, House
Education General Assembly Building,
Room 1107
201 North 9th Street
Richmond, VA 23219

Dear Chair Lucas, Chair Torian, Chair Favola, and Chair Rasoul,

[Chapters 573 and 574 of the 2026 Acts of Assembly](#) directs the Virginia Department of Education (VDOE) to assess the impact of developing a program to provide student support programs to students enrolled in Virginia's public elementary and secondary schools through certified student support agencies, as defined by the law.

... the Department of Education (the Department) shall assess the impact of developing a program to provide student support programs to students enrolled in a public elementary or secondary school through certified student support agencies. In conducting such assessment, the Department shall consider (i) a framework by which a certified student support agency would enter into a memorandum of understanding with a school board for the purpose of providing student support programs and suggested components of such memorandums of understanding, such as (a) documentation establishing the organization's nonprofit status, (b) a description of each student support program that such organization provides, (c) policies and procedures relating to privacy, background checks, mandated reporting, and the transmission, collection, use, and disposal of student

personal information, and (d) consent forms and procedures to be used by such student support programs to obtain the necessary consent from the parent of any student under 18 years of age; (ii) the feasibility of establishing and administering a certification process for certified student support agencies; (iii) potential compliance monitoring and enforcement mechanisms and subsequent penalties for noncompliance to ensure that each certified student support agency complies with such program; (iv) policies and procedures for the secure disposal of a student's personal information upon such student's withdrawal from a student support program, upon the cessation of any such program, or upon such student's graduation or transfer from the school division; and (v) cost estimates, including staffing needs, for the development and implementation of such program. The Department shall submit a report on its findings to the Chairs of the Senate Committees on Finance and Appropriations and Education and Health and the House Committees on Appropriations and Education no later than November 1, 2026.

This report provides a summary of the Department's findings on this topic. If you have any questions or require additional information, please do not hesitate to contact Holly Coy, Chief of Staff, at holly.m.coy@doe.virginia.gov or (804) 225-2057.

Sincerely,

A handwritten signature in black ink, appearing to read "Jenna Conway". The signature is fluid and cursive, with a large loop at the end.

Jenna Conway
Superintendent of Public Instruction

REPORT ON THE ASSESSMENT OF A CERTIFIED STUDENT SUPPORT AGENCY PROGRAM

Chapters 573 and 574 of the 2026 Acts of Assembly

November 1, 2026



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EXECUTIVE SUMMARY

[House Bill 178](#) and [Senate Bill 190](#), passed during the 2026 General Assembly session, instructed the Virginia Department of Education (VDOE, or the Department) to assess the impact of developing a state program in which certified student support agencies, defined in the legislation as a nonprofit organization certified by the Commonwealth to provide student support programs, would provide services to students enrolled in Virginia's public elementary and secondary schools. Under the proposed structure, the VDOE would certify the nonprofits, after which divisions could enter into memorandums of understanding with the organizations. The legislation defined student support programs as a program administered for the purpose of providing direct services to at-risk students, including housing stabilization, case management, tutoring or instructional support, youth mentoring and development, or summer enrichment services.

The VDOE was asked to evaluate the impact on the agency of developing a framework and program to certify student support agencies serving students in public schools in the Commonwealth. Specifically, the VDOE was charged with reporting on:

- (i) a framework by which a certified student support agency would enter into a memorandum of understanding with a school board for the purpose of providing student support programs and suggested components of such memorandums of understanding, such as
 - (a) documentation establishing the organization's nonprofit status,*
 - (b) a description of each student support program that such organization provides,*
 - (c) policies and procedures relating to privacy, background checks, mandated reporting, and the transmission, collection, use, and disposal of student personal information, and (d) consent forms and procedures to be used by such student support programs to obtain the necessary consent from the parent of any student under 18 years of age;**
- (ii) the feasibility of establishing and administering a certification process for certified student support agencies;*
- (iii) potential compliance monitoring and enforcement mechanisms and subsequent penalties for noncompliance to ensure that each certified student support agency complies with such program;*
- (iv) policies and procedures for the secure disposal of a student's personal information upon such student's withdrawal from a student support program, upon the cessation of any such program, or upon such student's graduation or transfer from the school division; and*
- (v) cost estimates, including staffing needs, for the development and implementation of such program.*

In developing the report, VDOE looked for other comparable programs around the county, examined the current context for nonprofit entities partnering with school divisions, considered components of the proposed legislation, and assessed the cost of creating a new infrastructure at the Department.

CURRENT CONTEXT

Currently, local school boards retain authority and discretion over which local organizations and entities can work with students and schools in their division. As such, they are responsible for determining appropriateness and effectiveness of the services provided and ensuring full compliance with state and federal laws surrounding the protection of student privacy and data. These agreements take many different forms, including formal contracts for services, partnership agreements or memorandum of understanding.

Federal and state law provide extensive legal guardrails around the sharing of student information and the maintenance of student privacy. Any arrangement between a local school division and nonprofit provider that includes information sharing about students must fully comply with state and federal privacy laws. Depending on the nature of relationship between the division and the partner organization, said guardrails may be complimented with additional division policies and protocols.

The most significant law that protects student information, which divisions are required to strictly adhere to, is the Family Educational Rights and Privacy Act (FERPA), a federal law that protects the privacy of student education (scholastic) records. An education record is defined as those records that contain information directly related to a student and which are maintained by an educational agency or institution or by a party acting for the agency or institution.

FERPA gives parents certain rights with respect to their children's education records. Schools, generally, must have written consent from the parent or eligible student to release information from a student's education record. Virginia code, in 22.1-287.02, requires the VDOE to make information publicly available to school divisions about FERPA compliance and has strict disclosure requirements to parents when violations have occurred.

Additionally, the Children's Internet Protection Act (CIPA) is a federal law designed largely to protect students and minors from accessing harmful content on the internet while at school, but it also requires divisions to adopt policies to prevent the unauthorized disclosure, use, or sharing of minors' personal information. Furthermore, Virginia law also enshrines protections of student information from educational technology companies, under 22.1-289.01.

Unfortunately, the VDOE does not receive federal or state funding to monitor nor has the expertise or capacity to assess whether or to what extent divisions and/or partner organizations are abiding by state and federal student privacy and data protection laws in either MOU language or in practice. The legislation contemplates additional state structures to protect student data, however the VDOE does not have data about the extent to which additional protections are needed nor the reasonableness of the proposed solution solving such concerns.

CERTIFICATION FEASIBILITY, COMPLIANCE MONITORING AND ENFORCEMENT

To inform its feasibility assessment, the Department conducted research on other state education agencies (SEAs). The Department did not identify any other SEAs in the United States that operate an official certification process for individual nonprofit organizations that provide student support services in public schools, as contemplated by the Virginia study mandate. Many partnership models exist within the state and across the nation, but none that were comparable in nature or required a SEA framework to certify before said organizations enter into partnerships with divisions.

Establishing and administering a certification process in Virginia is feasible, but it would require statutory authority, funding and infrastructure at the VDOE that does not currently exist, nor has it been modelled in other settings. To implement a certification process, new statutory authority is needed to define eligibility for certification, authorize the Department to certify private nonprofit organizations, and establish conditions for suspending or revoking such a certification, as well as appeals protocols and/or penalties for compliance failure.

If a certification process were to be established, VDOE would likely need to monitor compliance through regular recertification and attestation, periodic review of a sample of certified organizations, and a process for school divisions, parents, and others to submit complaints. Under recertification and attestation, certified organizations would renew their certification on an established cycle and attest that they continue to meet the program requirements, including those relating to privacy, background checks, mandated reporting, the handling and disposal of student personal information, and parental consent.

Organizations would also need to notify VDOE of any material changes, such as a change in nonprofit status or in the services they provide, as well as any breach of student personal information. Periodic review would allow the department to verify these attestations by selecting a sample of certified organizations each year and reviewing supporting documentation, such as background check records, mandated reporter training records, data security policies, and executed memoranda of understanding with school divisions. A complaint process would allow school divisions, parents, and others to report concerns about a certified organization to the department, which would review the complaint and determine whether further action is warranted.

Potential penalties for noncompliance, scaled to the seriousness of the violation, could include a corrective action plan with a deadline for resolving the issue, suspension of certification until the issue is corrected, and revocation of certification for serious or repeated violations, such as a breach of student personal information resulting from failure to follow required security practices or allowing an individual with a disqualifying criminal history to work with students. An earlier version of HB178 also proposed financial penalties and a mediation process for disputes between organizations and school boards. Any penalty structure may need to be established in statute, and VDOE would coordinate with the Office of the Attorney General on its design and implementation.

In addition to statutory authority, VDOE would also need dedicated staff to implement such processes and funds for an information system to track certified organizations. It is estimated that a certification process, with compliance monitoring and penalties for noncompliance would, based on the department's own fiscal analyses, require initial staffing costs estimated at \$577,171 to \$730,084, a tracking and compliance system estimated at no less than \$1,000,000, and recurring costs that could range from \$1.4 million to \$4 million annually depending on the number of participating organizations. Additional details are in the cost section below.

MEMORANDUM OF UNDERSTANDING

The VDOE was also asked to consider a framework by which a certified student support agency would enter into a memorandum of understanding with a local school board, and suggest components of such memoranda, including documentation of nonprofit status, a description of each program offered by the organization, policies and procedures relating to privacy, background checks, mandated reporting, and the handling of student personal information, and consent procedures for students under 18 years of age.

While school divisions already enter into memoranda of understanding or other similar agreements with community organizations that serve their students, and those agreements must comply with applicable state and federal law, the Department could support this existing practice by developing model guidance for memoranda of understanding between school boards and student support agencies.

There are many state and national examples of partnerships between local school divisions and non profit partnerships operating under memorandums of understanding. Such agreements provide a comprehensive scope of services, background check and training requirements for staff, and data-sharing guidelines that comply with the Family Educational Rights and Privacy Act.

A state model MOU could incorporate best practices from existing Virginia and National partnerships and could address the key topics identified in the act: documentation of the organization's nonprofit status; a description of each student support program, including the services provided; the schools and students served, and the information the organization will report to the division; background check requirements for staff and regular volunteers with direct contact with students, including for services provided off school property or outside the school day; mandated reporter training and procedures for reporting suspected child abuse or neglect; the sharing, use, secure transmission, storage, and disposal of student personal information, drawing on the Virginia School Data Privacy Agreement that many divisions already use; and parental consent procedures consistent with the Family Educational Rights and Privacy Act. Model guidance would provide a consistent baseline, but it would remain the responsibility of each local school division to design memoranda of understanding that meet the needs of the specific program and partnership.

[The State Fiscal Impact Statement provided by the Department of Planning and Budget for the House substitute of HB178](#) estimated the cost of this narrower, model guidance approach. Under that version, the Department would have been required to develop a model memorandum of understanding and guidelines and policies for implementation, issue data security guidance, and

convene a stakeholder work group on a potential certification process. Because the department does not currently have staff with the necessary expertise, it estimated a one-time general fund cost of \$54,560, assumed in fiscal year 2027, to pay for contract workers and to support the work group. The statement noted that the timing of these costs was uncertain because the bill's reenactment clause would have required action in the 2027 Session, and that any fiscal impact on local school divisions was indeterminate.

SECURE DISPOSAL OF STUDENT PERSONAL INFORMATION

The Department identified several policies and procedures that could be included in the model MOU related to the secure disposal of student personal information. The organization would be required to destroy, or return to the school division, all personal information about a student within a defined period, such as 30 days, after the earliest of the student's withdrawal from the program (including a parent's withdrawal of consent), the cessation of the program or termination of the memorandum, or the student's graduation or transfer from the school division. Destruction would need to make the information unreadable and unrecoverable in both paper and electronic form, including backup copies, consistent with recognized standards. The organization would provide the school division with written certification that the information was destroyed, and any subcontractor with access to the information would be bound by the same requirements. Existing state law and Department guidance already address the retention and disposal of student data and could serve as the basis for this component.

Under 22.1-20.2, the Department's model data security plan for school divisions must include data retention and disposition policies. [The Department's Model Security Plan and Best Practice Guidance in Cybersecurity for K-12 Schools](#) advises that data that has passed its retention schedule should be destroyed unless otherwise provided for in policy, and that retired hardware containing data should be erased or destroyed. Under 42.1-86.1, public records authorized for destruction must be destroyed in a timely manner, and records containing certain identifying information must be destroyed within six months after their retention period expires. For educational technology providers, 22.1-289.01 requires school service providers to delete student personal information within a reasonable period of time after the school or school division requests it, unless the student, or the parent of a student under 18, consents to its maintenance.

COST ESTIMATES

As originally introduced, HB178 would have required the Department to establish a full certification process. The department estimated that standing up and operating that process would require two full-time security analysts and one manager in the first year, for a combined first-year staffing cost of \$577,171, with salary and benefits benchmarked through the Department of Planning and Budget's position calculator. Recurring annual staffing in future years was projected at 8 to 20 positions statewide, with annual costs ranging from \$1,400,000 to \$4,000,000, depending on the number of programs ultimately brought into certification.

As the bill moved through committee substitutes, these projections shifted. One substitute strengthened compliance monitoring and enforcement, adding financial penalties, suspension, and revocation authority along with a dispute mediation function, and the department estimated

the changes would require one additional regulatory analyst position, bringing the combined Year 1 and Year 2 staffing cost to \$730,084. This same substitute introduced a new non-personnel cost, a dedicated tracking, monitoring, and compliance system to administer and enforce certification, estimated at a minimum of \$1,000,000. The version of the bill that passed the House removed the certification process, replacing it with a requirement that the department develop a model memorandum of understanding and convene a stakeholder work group to review a certification process, at an estimated one-time cost of \$54,560.

Taken together, these estimates indicate that the cost of developing and implementing a program depends primarily on whether the Commonwealth establishes a state certification process and to what extent the Department is expected to monitor compliance and noncompliance. A certification process with compliance monitoring and enforcement would require an estimated three to four new positions, with initial staffing costs estimated at \$577,171 to \$730,084, a tracking and compliance system estimated at no less than \$1,000,000, and recurring staffing that could grow to 8 to 20 positions, or \$1.4 million to \$4 million annually, depending on the number of organizations seeking certification. These estimates do not include costs to school divisions, which would vary locally and are indeterminate.