

Virginia Association of Independent Specialized Education Facilities

*Private Special Education Concerns Related to
Virginia General Assembly Study to Manage the Quality
and Costs of Private Day Educational Placements
Funded Through the Children's Services Act*



Joint Subcommittee for Health and Human Resources Oversight
November 29, 2017



Who is VAISEF?

- 84 Members – Private Schools serving students with disabilities
 - 68 Day School Programs
 - 26 Residential Programs
 - 69 Accredited Members, as recognized by VDOE
- 4,388 Enrolled Students
- 3,012 Total Employees
- 566 Licensed Teachers



Today's Presentation:

- History/Background – Private Special Education Funding Issue
- Presentation of VAISEF White Paper
- VAISEF Findings and Recommendations



History/Background – Private Special Education Funding Issue

- **2014 Legislation**: Stafford County wished to access CSA funds to bring back children from private day placements and serve them in public schools; led to COY Study.
- **2014 – 2015 Study**: Commission on Youth Study on Private Educational Placements
- **2016 Budget Language**: CSA / DOE Work Group Study



CSA SEC Workgroup on Private Day Educational Services – 2016

Tasked with reviewing and developing “a robust set of options for increasing the integration of children receiving special education private day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining outcome data to assist in making decisions on the appropriate utilization of these services.”

Options Presented to the Governor and Virginia General Assembly:

- Amend the Children’s Services Act to allow funding for services to Students with Disabilities in the public school setting.
- **Amend the Children’s Services Act to “carve out” and transfer CSA state pool funding for students with disabilities to the VDOE.**
- Request funding for several pilot programs to “implement and test” strategies for increasing the education of students with disabilities in the least restrictive, public school setting.



2017 General Assembly Action

- Governor took no budget or legislative action
- Competing budget amendments introduced in House and Senate
 - “Local Demonstration Grants” vs. Funding Shift from CSA to DOE
 - House Appropriations adopts “implementation plan” for shift
 - Senate Finance adopts “implementation workgroup” to study shift
- Final Budget Conference adopts comprehensive workgroup study



Workgroup Charge:

In examining the options, the workgroup shall consider:

- *Amending the CSA to transfer the state pool funding for students with disabilities in private day educational programs to the VDOE*
- Identification and collection of data on an array of measures to assess the efficacy of private special education day school placements
- Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment
- Role of Local Education Agencies in determining placements and overseeing the quality, cost and outcome of services for students with disabilities in private day educational programs
- An assessment of the Individualized Education Program (IEP) process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement



VAISEF Response

- VAISEF Special Education Advisory Group Appointed
- VAISEF Special Education Advisory Group Reviews Data Submitted to 2016 Study Work Group by CSA, DOE
- VAISEF Special Education Advisory Work Group Develops White Paper Response to Issue
- VAISEF Special Education Advisory Group Meets with Committee and DPB Staffers / Tour of St. Joseph's Villa Autism School



VAISEF White Paper

VAISEF Findings:

1. The General Assembly decision 25 years ago to provide sum-sufficient funding for private day school placements was visionary.

- Virginia was ahead of its time when it decided to look at the “whole child” instead of department by department.
- Any action, such as shifting special education funding from CSA to VDOE, that would result in repealing sum-sufficient funding for private day placements completely guts the intent and purpose of this effective program.
- Special education funding is a significant portion of the overall CSA budget. Carving out and transferring this funding to VDOE for use by public schools could begin the process of dismantling the very structure of CSA.



VAISEF White Paper

VAISEF Findings:

2. Much time is spent expressing frustration concerning the costs of special education services, but there is not enough being done to show the positive outcomes resulting from that investment.

- VAISEF enthusiastically endorses the 2016 work group recommendation on gathering outcome measures collaboratively through VDOE, local school divisions and VAISEF.
- In addition, it is recommended that Virginia review studies conducted in other states, such as Arizona, Massachusetts and New Jersey that show the cost effectiveness of providing special education services in the private setting versus the public setting.



VAISEF White Paper

VAISEF Findings:

3. Virginia's Regulations Governing Special Education Programs already provide the tools necessary to manage the quality and costs of private day placements.

- There is a misperception that children are being easily placed in private day schools with little consideration or deliberation. If there is any concern about placements, the Virginia Department of Education, pursuant to 8VAC20-81-20(10), has the authority to review local school jurisdictions' justification for its placements and assist those jurisdictions with planning and implementing any necessary corrective actions.



VAISEF White Paper

VAISEF Findings:

4. Early intervention programs will result in decreased rates of placements of children with serious disabilities.

- The sooner children with serious disabilities receive services in a private setting after a diagnosis, the greater the likelihood that they will be able to receive FAPE in the public school setting, thereby saving a tremendous amount of spending by the state for special education services for these children. Reducing funding for all special education placements is an ill advised reaction at a time when early intervention services will reduce the number of students, such as those with autism, requiring such placements.



VAISEF White Paper

VAISEF Findings:

5. Private special education schools save Virginia money because they are staffed with trained professionals who are able to educate students who might otherwise ultimately be expelled from public school. The public system would be hard pressed fiscally to replicate this.

- Private day schools provide essential services to localities that cannot provide it themselves. Most, if not all, localities would agree that private day schools are indispensable. For less populated school districts, it is nearly impossible to have a classroom to meet the needs of the populations we serve.
- Our efforts save the state money by allowing these students to remain at home with their parents or guardians during their school age years instead of having to receive residential treatment.



VAISEF White Paper

VAISEF Findings:

6. Private non-profit special education schools offset costs with private philanthropy funding.

- Our non-profit private schools make an additional investment in the services they provide with significant private philanthropy funding, over and above what the CSA pays for these services. Public schools do not have the same access to these types of funds to augment these types of services.
- With their budgets already stretched thin, it is doubtful that public schools could provide a similar level of quality from the amount “saved” by not spending CSA dollars in private day placements.
- It is estimated that on an aggregate basis, many millions of private philanthropy dollars are used to augment the special education services provided by non-profit private schools.



VAISEF White Paper

VAISEF Findings:

7. Innovative solutions must be encouraged.

- Public/private partnerships between local school jurisdictions allowing private day schools to run classrooms in the public school could help reduce costs.
- Encouraging local school jurisdictions to use private day school staff instead of having to hire their own for services such as speech and language could also reduce costs.
- VAISEF strongly supports collecting data on measures to assess the efficacy of private special education day school placements and give greater confidence to those who must make these placement decisions in the best interests of the child, while at the same time being cognizant of the public funds being utilized.



VAISEF White Paper

VAISEF Findings:

8. Virginia must carefully consider state and federal legal mandates in the provision of an appropriate education to children with disabilities, especially as a result of the United States Supreme Court’s decision in *Endrew F. v. Douglas County*.

- Funding appropriate education is a legal issue that requires an understanding of federal law and Virginia special education regulations. The Individuals with Disabilities Education Act (“IDEA”) mandates that children with disabilities are provided a Free and Appropriate Public Education (“FAPE”).
- As a result of *Endrew*, public schools around the country that relied upon a lower standard will now be in a position of having to truly educate their students with disabilities or find a private day school that is capable of doing so.



VAISEF White Paper

VAISEF Findings:

9. Decreasing funding for private educational placements will result in increased litigation.

- If funding from state is significantly reduced because sum sufficiency is lost, majority of jurisdictions will not have resources necessary to adhere to federal law and place a student in a private day school to receive FAPE. More parents will pursue right to seek decision on placement in the federal or state courts if the administrative due process hearing does not rule in their favor.
- Anything that disincentivizes placements in private day school settings increases the likelihood of parents making unilateral placements without the input and benefit of CSA process and pursuing litigation against local school jurisdictions for retroactive payment of those services.
- Failure of jurisdictions to appropriately place a student with special needs risks a Department of Justice comprehensive investigation of special education services and failure to provide FAPE to its students.



VAISEF White Paper

Other VAISEF Findings and Recommendations:

- More study and analysis must be given to understanding what is driving costs and placements in private special education day schools.
- Efforts to bring cost and decision-making into “alignment” at the local level must be considered carefully to avoid decisions being made solely for financial reasons.
- More thorough understanding must be gained by decision-makers on the true nature and scope of private special education services.
- We encourage you to take a closer look at VDOE’s efforts with the Regional Tuition Reimbursement Program.
- The future of the CSA should be determined through a comprehensive study conducted by JLARC.



VAISEF White Paper

Conclusion:

As we wrestle with cost and placement issues, we must never lose sight of the mission of the CSA:

“...to create a collaborative system of services and funding that is child-centered, family-focused and community-based when addressing the strengths and needs of troubled and at-risk youth and their families in the Commonwealth.”