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HOUSE BILL NO. 473

Offered January 14, 2026

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A BILL to amend and reenact §§ 22.1-214, 22.1-214.4, and 22.1-214.5 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-214.6, relating to public education; special education dispute resolution system; administration, organization, oversight, and training; regional special education ombudsman established.

Patron—Convirs-Fowler

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-214, 22.1-214.4, and 22.1-214.5 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-214.6 as follows:

§ 22.1-214. Board to prepare special education program for children with disabilities.

A. The Board of Education shall prepare and supervise the implementation by each school division of a program of special education designed to educate and train children with disabilities between the ages defined in § 22.1-213 and may prepare and place in operation such program for such individuals of other ages. The program developed by the Board of Education shall be designed to ensure that all children with disabilities have available to them a free and appropriate education, including specially designed instruction to meet the unique needs of such children. The program shall require (i) that the hearing of each disabled child be tested prior to placement in a special education program and (ii) that a complete audiological assessment, including tests that will assess inner and middle ear functioning, be performed on each child who is deaf or hard of hearing or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing, the Department of Health, and other state and local agencies that can or may be able to assist in providing educational and related services shall assist and cooperate with the Board of Education in the development of such program.

B. The Board of Education shall prescribe procedures to afford due process to children with disabilities and their parents or guardians and to school divisions in resolving disputes as to program placements, individualized education programs, tuition eligibility and other matters as defined in state or federal statutes or regulations. These procedures shall ~~encourage~~ *provide for a tiered dispute resolution system that encourages* the use of mediation as an informal means of resolving such disputes. Mediation shall not, however, be used to deny or delay the due process rights of parents or guardians. The procedures shall require that all testimony be given under oath or affirmation administered by the hearing officer.

C. The Board of Education may provide for final decisions to be made by a hearing officer. The parents and the school division shall have the right to be represented by legal counsel or other representative before such hearing officer without being in violation of the provisions of § 54.1-3904.

D. Any party aggrieved by the findings and decision made pursuant to the procedures prescribed pursuant to subsections B and C may, within 180 days of such findings and decision, bring a civil action in the circuit court for the jurisdiction in which the school division is located. In any such action, the court shall receive the records of the administrative proceedings, shall hear additional evidence at the request of a party, and basing its decision on the preponderance of the evidence, shall grant such relief as the court determines appropriate.

D1. In any action brought pursuant to subsection D, the court, in its discretion, may award reasonable attorney fees as part of the costs (i) to a prevailing party who is the parent of a child with a disability; (ii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent who files a complaint or a subsequent cause of action that is frivolous, unreasonable, or without foundation, or against the attorney of a parent who continued to litigate after the litigation clearly became frivolous, unreasonable, or without foundation; or (iii) to a prevailing party who is the Board of Education or a local school division against the attorney of a parent, or against the parent, if the parent's complaint or subsequent cause of action was presented for any improper purpose, such as to harass, to cause unnecessary delay, or to needlessly increase the cause of litigation.

Attorney fees may not be awarded relating to any meeting of the individualized education program (IEP) team unless such meeting is convened as a result of an administrative proceeding or judicial action, or, at the discretion of the State, for a mediation described in subsection B.

E. Whenever the Board of Education, in its discretion, determines that a school division fails to establish and maintain programs of free and appropriate public education that comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the

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59 payments that would have been available to such school division to provide special education, directly or by
60 contract, to eligible children with disabilities in such manner as the Board considers appropriate.

61 F. The Board of Education shall supervise educational programs for children with disabilities by other
62 public agencies and shall ensure that the identification, evaluation, and placement of children with disabilities
63 and youth in education programs by other public agencies, as appropriate, are consistent with the provisions
64 of the Board of Education's special education regulations.

65 G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the
66 evaluation of children with disabilities. These regulations shall include provision for parents to participate, if
67 they so request, in the consideration of the assessment components to be used. However, such regulations
68 shall not require any local school board to exceed the requirements of federal law or regulations for the
69 identification and evaluation of children with disabilities.

70 **§ 22.1-214.4. Certain duties of Department.**

71 The Department shall:

72 1. Provide training and guidance documents to local school divisions on the development of
73 individualized education programs (IEPs) for children with disabilities that incorporate specific examples of
74 high-quality present level of performance descriptions, annual goals, and postsecondary transition sections.

75 2. Develop a required training module for each individual who participates in an IEP meeting that
76 comprehensively addresses and explains in detail (i) each IEP team member's respective role in the IEP
77 meeting, (ii) the IEP development process, and (iii) components of effective IEPs. The training module shall
78 be required for all IEP participants, with the exception of parents, prior to participating in an IEP meeting and
79 at regular intervals thereafter.

80 3. Annually conduct structured reviews of a sample of IEPs from a sufficiently large sample of local
81 school divisions to verify that the IEPs are in compliance with state and federal laws and regulations
82 governing IEP content, and provide a summary report of the findings of such reviews and recommendations
83 regarding any necessary corrective actions to the reviewed divisions' superintendents, special education
84 directors, school board chairs and vice-chairs, and local special education advisory committees. In reviewing
85 local school divisions' IEPs, the Department shall determine whether the special education and related
86 services, supplementary aids and services, and program modifications that will be provided to enable students
87 with disabilities to participate in nonacademic and extracurricular activities are sufficient, and include its
88 findings and corrective actions in the summary reports it provides to the reviewed local school divisions'
89 superintendents, special education directors, and school board members. Nothing in this section shall be
90 construed to (i) direct the Department to make determinations regarding whether a particular IEP provides a
91 free appropriate public education to any individual student or (ii) authorize the Department to override a
92 parent's consent to proposed revisions to an individual student's IEP. In determining corrective actions, the
93 Department shall make recommendations to the relevant school division regarding, among other things, those
94 individual IEPs for which the IEP team should convene to consider revisions necessary to incorporate content
95 required by special education regulations. For those individual IEPs for which the Department recommends
96 that the IEP team should convene to consider such revisions, the relevant school division shall notify the
97 relevant parents or caregivers of the recommendations issued in the summary report of the structured review
98 conducted pursuant to this subdivision.

99 4. Develop and maintain a statewide plan for improving (i) its ongoing oversight of local practices related
100 to transition planning and services for children with disabilities and (ii) technical assistance and guidance
101 provided for postsecondary transition planning and services for children with disabilities. At a minimum,
102 such plan shall articulate how the Department will reliably and comprehensively assess the compliance and
103 quality of transition plans for children with disabilities on an ongoing basis and communicate findings to
104 local school division staff and local school boards. The Department shall, no later than December 1 of each
105 year, update the Chairmen of the Senate Committee on Education and Health and the House Committee on
106 Education on its progress in implementing such plan.

107 5. Develop and maintain a statewide strategic plan for recruiting and retaining special education teachers.
108 At a minimum, such plan shall (i) use data analyses to determine the specific staffing needs of each local
109 school division on an ongoing basis; (ii) evaluate the potential effectiveness of strategies for addressing
110 recruitment and retention challenges, including tuition assistance, differentiated pay for special education
111 teachers, and the expansion of special education teacher mentorships; and (iii) estimate the costs of
112 implementing each such strategy, including the extent to which federal funds could be used to support
113 implementation. The Department shall, no later than November 1 of each year, update the Chairmen of the
114 Senate Committee on Education and Health and the House Committee on Education on its progress in
115 implementing such plan.

116 6. In order to (i) address variation in rates of determinations of student eligibility for special education and
117 related services both across local school divisions in the Commonwealth and based on specific student
118 disabilities, (ii) promote consistency in such eligibility determinations, and (iii) ensure equal access to special
119 education and related services across local school divisions, (a) review and update all forms and worksheets

relating to referral, evaluation, reevaluation, and eligibility, including clarifying any ambiguity or vagueness in the standard for providing an initial evaluation or in eligibility criteria; (b) review and update guidance on the implementation of such referral, evaluation, reevaluation, and eligibility forms and worksheets and the legal obligations of local school boards to conduct initial evaluations and make eligibility determinations for special education and related services; and (c) develop high-quality professional development to support the implementation of such referral, evaluation, reevaluation, and eligibility guidance, forms, and worksheets.

7. (i) Develop criteria for what constitutes "exceptional circumstances" that warrant extension of the 60-calendar day regulatory timeline for complaint investigations and include the criteria in its publicly available complaint resolution procedures, (ii) consistently track the Department's receipt of each sufficient complaint and its issuance of the respective letter of findings, and (iii) require staff to report at least quarterly to the Superintendent on the specific reasons for granting an extension due to "exceptional circumstances" and the amount of time it took to complete each investigation beyond the 60-calendar day regulatory timeline.

8. Develop policies and procedures for considering and addressing credible allegations of local education agency (LEA) noncompliance with the requirements of the Individuals with Disabilities Education Act (P.L. 101-476) that do not meet the current regulatory standard for state complaints. Such policies and procedures shall include expectations and mechanisms for collaboration between the Office of *Special Education Dispute Resolution and Administrative Services* and the Office of Special Education Program Improvement in the ~~Division~~ *Department* of Special Education and ~~Student Services~~ *Specialized Populations* at the Department to investigate and resolve such credible allegations of noncompliance that do not qualify for state complaint investigations.

9. Elevate the position of State Parent Ombudsman for Special Education. The State Parent Ombudsman for Special Education shall (i) report to the Superintendent; (ii) systematically track and report to the Department questions and concerns raised by parents to the State Parent Ombudsman for Special Education and special education family support centers established pursuant to § 22.1-214.5; (iii) coordinate with the Parent Training and Information Center on the activities of the special education family support centers established pursuant to § 22.1-214.5; ~~and~~ (iv) develop a one-page comprehensive summary of the roles and responsibilities of the State Parent Ombudsman for Special Education and such special education family support centers, the specific supports the State Parent Ombudsman for Special Education and such special education family support centers can provide to parents, and how to contact the State Parent Ombudsman for Special Education and such special education family support centers. The Department shall make the summary available in multiple languages on its website and as part of the Virginia IEP established pursuant to subdivision 11; (v) *develop and implement a brief, anonymous evaluation survey to be provided after an individual has contacted the State Parent Ombudsman for Special Education that shall be satisfaction-based and include an opportunity for individuals to provide anonymous comments;* (vi) *collaborate with the Office of the Children's Ombudsman, established pursuant to § 2.2-439, including through providing regular updates on relevant activities, data-sharing, conducting or participating in third-party investigations, and providing other support as needed;* (vii) *provide for training, by a neutral, qualified expert, of staff of the State Parent Ombudsman for Special Education on, at a minimum, federal and state laws and regulations relating to special education and related services, including Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794 et seq.) and the Individuals with Disabilities Education Act, with a focus on special education dispute resolution options for mediation, state complaints, and impartial due process hearings; and (viii) with such funds as may be appropriated for such purpose, provide staff support, resources, and technical assistance to the public relating to navigating the special education dispute resolution system, including by providing, in partnership with the Parent Training and Information Center and the special education family support centers established by the Parent Training and Information Center pursuant to § 22.1-214.5, additional resources designed for parents and school personnel on the development and utilization of early conflict resolution skills.*

10. Develop and implement a process for systematically auditing and verifying school divisions' self-determinations of compliance with all Individuals with Disabilities Education Act (P.L. 101-476) performance indicators. The verification process shall include a random sample of school divisions each year and ensure that all school divisions' self-determinations are reviewed and verified no less frequently than once every five years.

11. (Effective July 1, 2027) Develop, establish, review and update as necessary at least once every five years, and make available to each local school board an IEP writing, facilitation, tracking, and transfer system to be referred to as the Virginia IEP that includes, at a minimum, an IEP template component and a data system component. The Department shall ensure that such data system component allows for secure transfer of data from division student information systems to the Department. The Department shall also develop and make available to each local school board guidance on the utilization of the Virginia IEP and high-quality professional development to support (i) the effective utilization of the Virginia IEP and (ii) the implementation of instructional practices to support the provision of specially designed instruction in inclusive settings.

12. Develop and publish a data dashboard for the annual public reporting, on a date to be determined by

the Superintendent, of state-level, division-level, and school-level special education data, disaggregated by disability type and by subgroups of students with disabilities, including by race, ethnicity, economic disadvantage, English learner status, foster care status, and unhoused status, except when such disaggregation would result in the disclosure of any student's personally identifiable information in violation of relevant federal and state law. Such data dashboard shall include disaggregated (i) results on the early literacy screener provided by the Department, the Virginia Kindergarten Readiness Program, and Standards of Learning assessments and (ii) college and career readiness and learning climate measures.

13. Monitor, oversee, and analyze data on trends in the utilization and implementation of the special education dispute resolution system to ensure compliance with applicable federal and state law and regulation, including by (i) monitoring and analyzing data on Department oversight of school division implementation of corrective action plans, due process remedies mandated by hearing officers, and state complaint decisions and (ii) conducting oversight of and analyzing data on the administration and utilization of the special education dispute resolution system by school divisions to ensure consistent implementation of required timelines, roles, forms, and procedures, incorporation of dispute resolution prompts into the Virginia IEP established pursuant to subdivision 11 to document alternative resolution efforts, and public reporting of dispute resolution outcomes and corrective actions, in accordance with applicable law.

14. Engage with an independent, neutral organization for the provision of neutral, qualified facilitators trained in IEP facilitation techniques, the positive resolution of special education complaints, and the provision of supports to families in IEP development.

15. Engage with trained, neutral special education mediators to serve as independent, third-party neutrals in providing confidential, voluntary mediation services to school divisions and parents involved in special education dispute resolution.

16. Provide training on the tiered dispute resolution system to school divisions for school personnel that includes training on early conflict resolution and the establishment of a uniform tracking system in each school division designed to support the addressing of concerns raised by families relating to special education and related services before such concerns become formal disputes.

17. Collaborate with the Parent Training and Information Center and the special education family support centers established by the Parent Training and Information Center pursuant to § 22.1-214.5 to (i) develop and provide to families training on the tiered dispute resolution system focused on plain-language descriptions of dispute options, real-world scenarios, and interactive guidance based on the nature of the individual concern and (ii) develop and implement, in coordination with parent teacher associations and other parent organizations working to ensure the use of effective strategies for engaging parents and families, an initial promotional information campaign on the special education family support centers, to be implemented at the school level for the purpose of informing parents, families, and other relevant individuals of the special education family support centers.

18. Collaborate with a neutral independent professional with expertise on the Individuals with Disabilities Education Act and its implementing regulations to provide (i) training to all Department staff in the Office of Special Education Dispute Resolution and (ii) mandatory regular and specialized training to all special education mediators and hearing officers used by the Department and school boards in special education dispute resolution on (a) federal and state special education laws and regulations; (b) strategies and preparation for supporting fair, student-centered decision-making; (c) ensuring that the due process hearing process is understandable and accessible to all families; (d) conducting due process hearings that are respectful, balanced, and accessible to parents and school personnel; and (e) maintaining impartiality, clear communication, and family engagement throughout the dispute resolution process. Such training shall utilize Department-approved materials aligned with applicable federal and state laws and regulations.

§ 22.1-214.5. Special education family support centers.

The Parent Training and Information Center in the Commonwealth designated pursuant to 20 U.S.C. § 1471(e) shall establish special education family support centers in eight distinct regions of the Commonwealth that shall each (i) be staffed by a regional special education family liaison employed by such center; (ii) coordinate with special education parent/family liaisons required to be designated pursuant to subsection R of § 22.1-253.13:2; (iii) develop and implement outreach and support to parents of children with disabilities in its region; and (iv) track and report to the State Parent Ombudsman for Special Education data on questions and concerns raised by parents; (v) collaborate with the Department to provide training on the tiered dispute resolution system in accordance with subdivision 17 of § 22.1-214.4; and (vi) in coordination with the Department, develop and implement an initial promotional campaign in accordance with subdivision 17 of § 22.1-214.4.

§ 22.1-214.6. Regional special education ombudsman centers; established; duties.

A. With such funds as may be appropriated for this purpose pursuant to the general appropriation act, the Department shall establish four regional special education ombudsman centers to be aligned with and established in locations near the Training and Technical Assistance Centers of (i) George Mason University, (ii) Old Dominion University, (iii) James Madison University, and (iv) Radford University.

B. Each regional special education ombudsman center established pursuant to subsection A shall serve as

244 a resource on matters relating to the special education dispute resolution system and process, including by (i)
245 providing one-on-one assistance for families and schools; (ii) monitoring systemic concerns; (iii) publicly
246 reporting trends and recommendations relating to the dispute resolution system; (iv) developing
247 informational resources and interactive guidance on the dispute resolution process in language
248 understandable to the general public, including descriptions and videos with descriptions of relevant
249 processes and real world scenarios; (v) visiting different regions of the Commonwealth to engage with
250 parents and educators and promote the resources of the regional special education ombudsman center and to
251 hear comments and recommendations on improving the effectiveness and visibility of the regional special
252 education ombudsman center; (vi) developing and providing training for families on tiered dispute resolution
253 options; and (vii) analyzing and acting upon satisfaction-based evaluation surveys submitted pursuant to
254 subdivision 9 of § 22.1-214.4.