

Virginia Beach City Public Schools
Responsibilities Pertaining to Students with Disabilities

July 1, 2010

General Policy Statement

The purpose of this document is to delineate the responsibilities of the Virginia Beach City Public Schools for serving students with disabilities in the division's jurisdiction (8 VAC 20-81-30 A; 8 VAC 20-81-230 B.1.a.). The provisions of these guiding principles are in accord with the most recent changes to the federal and state laws and regulations pertaining to special education: the *Individuals with Disabilities Education Improvement Act of 2004* (IDEA), the federal regulations issued on October 13, 2006 in accordance with the Act, and the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* issued on January 25, 2010 (8 VAC 20-81). In the context of these provisions, "students with disabilities" means any person aged two to twenty-one years, inclusive, who has met the criteria for eligibility under IDEA and the corresponding federal and state regulations.

Any changes to IDEA 2004 or the federal or the state regulations pertaining to special education will be reflected immediately in the special education processes and services within Virginia Beach City Public Schools through guidance documents and training. It is the intent of the school division to be in compliance with all mandates and regulations at all times by providing a free appropriate public education (FAPE) to all students with disabilities in the least restrictive environment (LRE). These procedures will support the provision of educational opportunity in the general education curriculum to the extent possible in accordance with each student's individualized education program (IEP) that has been designed to meet the unique educational needs of the students as they are prepared for post-secondary education, employment, and independent living.

Throughout the document, student(s) and child(ren) are used interchangeably. The meaning is the same and refers to any person aged 2 to 21 years of age, inclusive. References to Virginia Code and the Regulations have been included as deemed necessary.

In this document and all other documents published and distributed by the Virginia Beach City Public Schools, the classification of Developmental Delay is used for the identification of students with disabilities under IDEA eligibility and applies only to a disability affecting a child ages two by September 30 through six years of age inclusive. (8 VAC 20-81-80 M)

Additionally, the Virginia Beach City Public Schools in relationship to the responsibilities pertaining to students with disabilities, prohibits the harassment of students with disabilities in academic and nonacademic settings during the school day and for school-sponsored extracurricular activities. (8 VAC 20-81-100 N; School Board Policy 5-7).

Local Procedures

There are several areas in the Virginia Regulations that require local procedures as part of the Local Special Education Annual Plan and Report. These procedures are not the same as operational procedures as delineated in the Virginia Beach City Public Schools' Special Education Administrative Guidelines. The operational procedures detail the daily processes by which the division functions; they are considered fluid because they change from time to time and need to adapt with expeditious modifications. Standard procedures such as represented in this document, are more static, consistent with regulatory language, and require review by the Special Education Advisory Committee and approval of the School Board. The following standard procedures pertain to: Child Find, General Screening, Referrals from the General Screenings, Referral for Initial Evaluation for Special Education, Special Education Evaluation and Re-Evaluation, Eligibility Determination, Surrogate Parents, Audio recording, Response to Interventions for SLD Eligibility Determinations, Excusal of IEP Team members, IEP meetings without a Meeting, Disproportionality, Long-term Removals, Residency, Student Records Hearings, and 504 Grievance Procedures .

CHILD FIND PROCEDURES

8 VAC 20-81-50

Virginia Beach City Public Schools maintains a Child Find process to identify, locate, and evaluate students residing in the division who are birth to age 21, inclusive, who are in need of special education and related services, including students who are highly mobile, such as migrant and homeless students; wards of the state; enrolled in private schools, including students who are home-instructed or home-tutored; are suspected of being students with disabilities and in need of special education, even though they are advancing from grade to grade; and those who are under age 18, who are suspected of having a disability who need special education and related services, and who are incarcerated in the Virginia Beach Corrections Center for 10 or more days.

Virginia Beach City Public Schools coordinates Child Find activities for infants and toddlers (birth to age two, inclusive) with the Virginia Beach Part C agency.

Virginia Beach City Public Schools also locates, identifies, and evaluates students with disabilities who are enrolled by their parents in private, including religious, elementary schools and secondary schools (34 CFR 300.131, 34 CFR 300.133, 34 CFR 300.134). This process in Virginia Beach City Public Schools allows for equitable participation of parentally-placed private school students and an accurate count of those students. Private school representatives are trained in the Child Find process that includes the same activities and timeframes as offered in the public schools (i.e., the classroom teacher is the person designated to complete the screening of students for the basic skills in fine and gross motor, language, speech, and voice). Information is provided to the private school representatives through documents, training, and email communication about the process available for obtaining the vision and hearing screenings with public school nurses located at the nearby public schools. Educational materials on scoliosis are provided to the private school representatives for distribution to students in the private schools. The cost of any Child Find communication or activities as well as any costs for evaluations, in-

service presentations, or other collaborative activities with the private school staff and/or parents is not considered part of the set-aside amount available for special education and related services provided to the students who are parentally-placed by their parents in such private school settings. These services include services provided to all such students even those who reside outside Virginia Beach or the state of Virginia as long as they are students enrolled by their parents in a private school located in the jurisdiction of Virginia Beach City Public Schools that meets all the criteria under the law.

Each year, staff members from Virginia Beach City Public Schools consult with appropriate representatives and parents of the private school students including those who are home-instructed or home-tutored. Discussions focus on how best to implement the Child Find and evaluation activities for the parentally-placed private school students with disabilities as well as how best to use the “set aside” funds to provide services during each upcoming school year.

Virginia Beach City Public Schools provides information to the public to increase awareness of the school division’s responsibilities with respect to Child Find, FAPE for students ages two to 21 (inclusive), and the importance of early identification and service provisions. The public is made aware of Child Find efforts through activities such as brochure distribution; televised advertisements on the local VBTV station; notices provided in division publications such as *Apple-a-Day* and *Dialogue*, and the *Parent/Student Handbook*; and annual updates/presentations to community agencies.

Child Find activities in Virginia Beach City Public Schools include screenings and the documentation of such, for students enrolled in the division, including transfers from out-of-state. The students are screened in the areas of hearing and vision in accordance with the 8VAC20-250-10 (§ 22.1-273 of the Code of Virginia) and in the areas of speech, voice, language, and fine and gross motor functions to determine if a referral for an evaluation for special education and related services is indicated. Educational materials on scoliosis and actual scoliosis screenings in accordance with the requirements of 8VAC20-690-20 (§ 22.1-273.1 of the Code of Virginia; VBCPS Regulations 5-58.1) are also maintained. If a student fails any of the screened areas or if the original results are considered invalid for any reason (e.g., the student has a cold, the student is experiencing seasonal allergies), the screenings are repeated at a later date. Virginia Beach City Public Schools may also recognize screenings reported as part of the student’s pre-school physical examination required under the Code of Virginia (§ 22.1-270 of the Code of Virginia) in place of completing a new screening if the pre-school physical is no more than one year old.

Local Screening Procedures

Virginia Beach City Public Schools assigns responsibility for each area of screening to the principal/designee who assumes responsibility for training personnel to conduct the screenings. Annual trainings and/or information is distributed to the schools as a reminder of this responsibility. The classroom teacher and the school nurse are made aware of their responsibilities in completing the following screenings:

- a) The classroom teacher completes the screening checklist in the areas of speech, voice, language, gross and fine motor skills.
- b) Health Services staff completes the screenings in the areas of vision and hearing while overseeing the scoliosis screening or distribution of educational materials on scoliosis.

A student's pre-school physical examination required under the Code of Virginia may be accepted for the screening if the area(s) of screening to be conducted were included and documented on the physical examination form and it is no more than one year from the date of that physical examination.

Each individual conducting a screening must document the results on the screening form (Screen Log) and ensure that it is filed in a confidential manner in the student's scholastic record. After the screening is conducted, the principal/designee informs the parents of the results of the screening if the student fails one or more areas. In addition, those individuals responsible for the screening follow-up on failed screenings by scheduling re-screenings or making referrals for special education evaluations as appropriate.

The following details the timelines and additional screening procedures in Virginia Beach City Public Schools:

- 1) Hearing and vision screenings are conducted within 60 business days of the opening of the school year for all students in grades K, 3, 7, and 10 (8VAC 20-250-10). If an elementary student K thru 5 has received vision and/or hearing screenings on an entry comprehensive physical exam, this information may be used in lieu of a new screening. Audiologists may be utilized to complete the hearing screenings as necessary.
- 2) Health Services may complete vision and hearing screenings on new enrolling students in the non-mandated screening grades after the mandated grades are completed in the initial 60 business days.
- 3) Speech, voice, language, and fine and gross motor are screened within 60 business days of the opening of school for all new enrollees including those in kindergarten and those who transfer into the school division for the first time.
- 4) Scoliosis educational information will be distributed annually to the parents of students grades 5 thru 10 within 60 business days after the opening of the school year. After this provisional state mandate (8VAC20-690-30) has been met, Health Services staff may screen for scoliosis in grades 5, 7, and 9 during the remainder of the school year (8VAC20-690-20). If scoliosis screenings are scheduled, parents will be notified and given the opportunity to opt out of the screening.
- 5) The Virginia Beach City Public Schools provides annual written notice to parents of the scheduled screenings for grade levels as stated above. The notice includes the purpose of the screening, when it will occur, and if the student fails the screening, the results of the screening.
- 6) For scoliosis educational material includes the following information:
 - a) a definition of scoliosis,

- b) a description of how scoliosis is identified,
- c) a statement describing why it is important to screen for scoliosis,
- d) a description of the procedures used to screen for scoliosis,
- e) a description of potential treatments for scoliosis, and
- f) information on where screenings may be obtained, including the school.

When the screening results for any student suggests that a referral for evaluation for special education and related services is indicated, the principal/designee is responsible for ensuring that the student is referred to the Special Education Committee (SEC). The referral must include the screening results.

Confidentiality and documentation in the student's scholastic record is maintained throughout the screening process.

Referral for Suspected Disability

Virginia Beach City Public Schools accept all referral requests for a student suspected of having a disability, regardless of whether the student is enrolled in public school. The principal/designee ensures that the referral is documented on a referral form which includes the student's name, the reason for the referral and efforts made to address the concerns, the date the referral was received, the name of the person or agency making the referral, the parent's name, and contact information for the parent. The principal/designee selects one of two options: a) referral to the Special Education Committee (SEC) for consideration of the referral or b) referral to the Student Support Team (SST) if the referral was not initiated by the SST.

Referral to the SEC:

If the principal/designee forwards the referral to the SEC, the SEC reviews the referral within 10 business days of the referral receipt by the principal/designee. In Virginia Beach City Public Schools, the SEC has the same composition as an individualized education program (IEP) committee and includes: the parent; the referring source, as appropriate; the principal/designee; one general education teacher of the student; one special educator; and one member who is knowledgeable about alternative interventions and about procedures required to access programs and services that are available to assist with students's educational needs. (This latter member who is knowledgeable about alternative interventions may be one in the same as the principal/designee, general educator, or special educator.) Additional professionals are included as appropriate and based on the reason for the referral. Parents or any referring source, as well as the education staff bring to this meeting all pertinent data, work samples, prior evaluative reports/findings, and other materials as deemed relevant to the discussion.

The SEC reviews the reason for the referral and reviews the student's record and any other performance evidence or data that will be used to make recommendations for educational and/or behavioral needs. The team may determine that (1) the referral for special education evaluation is not needed for the student, noting that the student is performing adequately; (2) recommend interventions with prescribed review dates; or (3) refer the student for a special education

evaluation. All decisions of the SEC are documented in writing and include information upon which the decision was based. Such documentation is maintained in the student's scholastic record in a confidential manner.

If the team determines that the student should be referred for an evaluation for special education and related services, the SEC members decide what assessment components to request for the purpose of determining if the student is an eligible student under IDEA. Even when the decision of the SEC is to pursue an evaluation, the team may suggest the use of scientific, research-based interventions or other alternative research-based procedures to assist the student in the general education setting until eligibility under IDEA is determined. The interventions must be documented and must not needlessly delay a student suspected of having a disability from being evaluated for special education and related services. Therefore, if the decision is to evaluate for special education eligibility and to provide interventions during the evaluative period, the 65 business day timeline remains.

If the SEC decides not to refer the student for a special education evaluation, the parent is provided with prior written notice indicating that the request for a special education evaluation was refused, the reasons for the decision, a description of other options the team considered and reasons why they were not accepted, a description of the information (e.g., each report provided by the parent or school, prior existent formal and informal assessments, health records, report cards) used to make the decision, and any other factors that were relevant to the committee's decision. The prior written notice also includes information pertaining to the parents' right to appeal the decision through a due process hearing. The parent is given a copy of the procedural safeguards. The team may refer the student to any other resource within the division for consideration of other methods of assistance, such as the Student Support Team, the 504 Committee, guidance, etc.

Regardless of the decision of the SEC, at no time does the division require parents to obtain a prescription for any behaviors or school difficulties of their child as a condition of attending school, receiving an evaluation under IDEA, or receiving services under the Regulations. However, this does not prevent teachers and other school personnel from consulting or sharing classroom-based observations with parents or guardians regarding a student's academic and functional performance, behavior in the classroom or school, or the possible need for an evaluation for special education or related services.

Referral to the SST:

If the referring source agrees and the principal/designee forwards the referral to the SST rather than the SEC, the team reviews the referral information and determines strategies to address any academic or behavioral concerns noted by the referral source. Each SST in Virginia Beach City Public Schools functions as the mechanism in the school that provides review and support to teachers, parents, and others interested in a particular student's well being. Students referred to the SST do not demonstrate academic, functional, or behavioral concerns that would indicate the existence of a qualifying disability under IDEA. The division maintains a separate set of guidelines and forms for the daily operation of the SST. However, at any time during the review

of a student by the SST, there is a suspected disability, the student must be referred to the SEC for consideration of a comprehensive evaluation. The date that the SST suspects a disability is regarded as the start of the 65 business day timeline for determining eligibility under IDEA and all procedures of the SEC apply from that date forward.

REFERRAL FOR INITIAL EVALUATION FOR SPECIAL EDUCATION 8 VAC 20-81-60

Virginia Beach City Public Schools ensures that referral procedures apply to all students, aged two to 21, inclusive, who are residents in accordance with the Virginia Regulations, whether enrolled in public school or not, who are suspected of having a disability. This includes students parentally-placed in qualifying private schools within the jurisdiction of Virginia Beach City Public Schools as well as home-schooled students residing in the City.

All referrals for initial special education evaluations are processed using the referral procedures detailed above. Referrals from the SST or referrals accepted and initiated by the special education administrator/designee result in the start of the process of determining eligibility for special education and related services. The special education administrator/designee records the date the referral was received, reason for referral, and names of the person or agency making the referral, including the Virginia Department of Education.

Once the referral for a special education evaluation is made by the SST or accepted by the special education administrator/designee, the SEC will meet within 10 business days. The parent is notified of the referral if they are not the referring source or if they have not been a participant in the SST process. Parents are invited to attend the SEC screening meeting and a mutually agreeable time is arranged. They are informed of the referral process, the procedures used to determine what evaluation data is needed, and are requested to provide any evaluation information they may already have on their child. At the screening meeting, the evaluative/eligibility process is explained and the procedural safeguards notice is provided to the parents in their native language or primary mode of communication. Prior written notice indicating the results of the screening meeting is provided to the parent in a timely manner, but no later than 10 business days after the meeting.

Evaluations to be administered are identified and included to enable the school division to gather relevant functional, developmental, or academic information about the student so the eligibility team will be able to determine if the student is a student with a disability in need of special education and related services. The evaluation process will be sufficiently comprehensive to enable the school division to determine, if the student is eligible, the student's special education and related services needs, as well as educational needs. The principal/designee or special education administrator/designee will secure informed consent for the evaluation process prior to initiating the evaluations. At any time during the evaluative process, the parent may revoke their consent for any portion of the evaluation that has not yet been completed; however, the revocation is not considered retroactive.

Professionals are assigned to complete evaluations consistent with their expertise, and are

provided with a deadline for completion to ensure that eligibility decisions are made within 65 business days from the receipt of the referral by the special education administrator/designee. The 65 business day timeline may be extended if the parent and eligibility team agree in writing that additional time is needed to obtain data. The 65 business day timeline does not apply in the following circumstances:

- 1) for those students whose parents repeatedly fail to produce the student for the evaluation;
or
- 2) for a student that enrolls in the Virginia Beach City Public Schools after the 65 business days has begun in a previous school division, but prior to a determination by the student's previous school and/or school division as to whether the student is a student with a disability. The Virginia Beach City Public Schools works to complete the evaluation expeditiously. This exception only applies if Virginia Beach City Public Schools is making sufficient progress to ensure a prompt completion of the evaluation and the parent(s) and Virginia Beach City Public Schools agree to a specific time when the evaluation will be completed.
- 3) for instances in which the parent and other SEC members agree that more time is needed to obtain essential data/information for the eligibility determination.

The staff complies with all requirements related to confidentiality of student records throughout the evaluation and eligibility process.

The Virginia Beach City Public Schools acknowledges the following parent consent requirements:

- 1) parental consent is not required before reviewing existing data as part of an evaluation or administering a test or other evaluation that is administered to all students, unless parental consent is required before administration to all students.
- 2) parental consent for initial evaluation shall not be construed as consent for initial provision of special education and related services.
- 3) the Virginia Beach City Public Schools shall make reasonable efforts to obtain parental consent for an initial evaluation to determine whether the student is a student with a disability.
- 4) for initial evaluations only, if the student is a ward of the state and is not residing with the child's parent, the Virginia Beach City Public Schools will not be required to obtain parental consent to determine whether the student is a student with a disability if:
 - (a) despite reasonable efforts to do so, the LEA cannot discover the whereabouts of the parent of the student;
 - (b) the rights of the parents of the student have been terminated in accordance with Virginia law; or
 - (c) the rights of the parent to make educational decisions have been subrogated by a judge in accordance with Virginia law and consent for an initial evaluation has been given by an individual appointed by the judge to represent the student. The Virginia Beach City Public Schools then proceeds with evaluating the student without finalizing the appointment of a surrogate parent.
- 5) if the parent does not provide consent for the initial evaluation, or fails to respond to a

request to provide consent, the Virginia Beach City Public Schools may, but is not required to, use the dispute resolution options of mediation or due process to pursue the initial evaluation of the student. The Virginia Beach City Public Schools does not violate its obligation under Child Find or other free appropriate public education provisions if it declines to pursue the evaluation.

- 6) if a parent of a student who is home-instructed or home-tutored, or who is placed in a private school by the parent(s) at the parent's own expense, does not provide consent for initial evaluation, or the parent fails to respond to a request to provide consent, the Virginia Beach City Public Schools will not use mediation or due process to pursue the initial evaluation.

EVALUATION AND REEVALUATION

8 VAC 20-81-70

The SEC, consistent with the make-up of an IEP team, determines which evaluation components are needed to provide data required for the eligibility team to make a decision. In order to make this determination, the Committee meets to review existing evaluation data, including evaluations and information provided by the parents and current classroom-based, local, and/or state assessments and classroom-based observations, and observations by teachers and related services providers. The parent is provided written notice of the meeting early enough to ensure that the parent has an opportunity to participate in the review. The notice includes the purpose, date, time, and location of the meeting and who will be in attendance by position (not actual names), and it will inform the parent that both the Virginia Beach City Public Schools and the parent may invite to the meeting other individuals, including related services personnel, who have knowledge or expertise about their child, if appropriate.

Based on the information available, the SEC which includes the parent identifies what additional data is needed, if any, to determine the following:

- 1) whether the student is (or continues to be) a student with a disability,
- 2) the present educational needs of the student,
- 3) the student's present level of academic achievement and related developmental needs,
 - a) whether the student needs (or continues to need) special education and related services, and
 - b) whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals included in the student's IEP and to participate, as appropriate, in the general education curriculum.

If it is determined that additional data is needed, school personnel ensure that tests and other evaluation materials are completed, as necessary, to obtain the data to address issues 1-3, above.

If no additional data is needed to address the issues above, the SEC provides the parent with prior written notice of the decision. The prior written notice must meet all requirements detailed in the Virginia Regulations at 8 VAC 20-81-170. The notice includes information regarding the determination and the reasons for it, the right of the parent to request an evaluation to determine whether the student continues to be a student with a disability, and to determine the student's

educational needs. In addition, the SEC documents that the parent was informed of the following:

- 1) that Virginia Beach City Public Schools is not required to conduct assessments if the team has determined that it has enough information to determine whether the student is or continues to be a student with a disability and to determine the student's educational needs, unless the parent requests an evaluation for these specific purposes;
- 2) that a review of the information that conforms with the required process will be considered the evaluation if no additional data are needed; and
- 3) that the parent has the right to appeal the decision through the use of mediation or due process proceedings.

If the SEC determines not to evaluate a student suspected of a disability, it provides the parent with a prior written notice that meets all requirements detailed in the Virginia Regulations, at 8 VAC 20-81-170, including the parent's rights to appeal the decision through due process proceedings.

The special education administrator/designee obtains informed parental consent before conducting any evaluations or reevaluations. For a reevaluation, if the Virginia Beach City Public Schools can demonstrate reasonable measures to obtain consent but the student's parent failed to respond, the Virginia Beach City Public Schools proceeds with the evaluation as if consent has been received. To demonstrate reasonable measures in such instances, the Virginia Beach City Public Schools will provide notice to the parent in writing at least twice and will contact the parent by phone if the parent has a phone.

- 1) If the parent refuses consent, the Virginia Beach City Public Schools may pursue those evaluations by using due process hearing procedures or mediation, but the school division is not required to do so.
- 2) Consent will not be required for any of the following: when the team decides that a review of existing data is sufficient; when a teacher or related service provider reports their observations of the student or ongoing classroom evaluations; or before administering a test or evaluation that is administered to all students, unless parental consent is required from all parents prior to the administration of the test.

A variety of evaluation or assessment tools and strategies, sufficiently comprehensive to identify all of the student's special education and related services needs (whether or not commonly linked to the disability category used for the student's classification), will be used to gather relevant functional, developmental, and academic information about the student, including information provided by the parent(s), and information related to enabling the student to be involved in and progress in the general curriculum (or for a preschool child, to participate in appropriate activities).

This information will be used to determine whether the student is a student with a disability, the student's educational needs, and the content of the student's IEP. No single measure will be used as a sole criterion for determining whether a student is a student with a disability and for determining an appropriate educational program for a student.

Initial evaluations and reevaluations other than the triennial are completed so that the eligibility decision can be made within 65 business days from the receipt of the referral by the special education administrator/designee, who serves as the designee for Virginia Beach City Public Schools Special Education Director. If the parent and the Virginia Beach City Public Schools agree, the 65 business day timeline may be extended in order to obtain information that could not be obtained during the 65 business day timeline. This agreement must be in writing. Triennial reevaluations will be initiated in sufficient time to ensure that an eligibility determination can be completed within three years of the anniversary date of the previous eligibility decision.

All evaluation assessments and materials are selected and administered to ensure no racial or cultural bias. In addition, evaluations are provided and administered in the student's native language and in ways that are most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

- 1) All assessments are used for the purposes for which they are valid and reliable and are administered by personnel that are trained and knowledgeable regarding the instructions provided by the producer of the assessments.
- 2) Assessment tools are selected to assess specific areas of educational need rather than produce a single general intelligence quotient.
- 3) If the student has impaired sensory, motor, or communication skills, assessments are used that take that into consideration so as to measure accurately the student's aptitude or achievement or whatever the test is designed to assess, rather than reflecting the impairment in the student's sensory, motor, or communication skills.
- 4) Assessments that are used to assess the relative contribution of cognitive, behavior, physical or developmental factors are technically sound.
- 5) If the student being assessed is limited in English proficiency, assessments are selected and administered to ensure that they measure the extent that the student has a disability and needs special education, rather than measuring the student's English skills.

If assessments are conducted under non-standard conditions, those conditions, including the extent to which the assessment varied from the standard conditions, are included in the evaluation report and whether the non-standardized assessment administered by a qualified professional is useful in the determination of whether the student is a student with a disability and is useful in contributing to the contents of the student's IEP.

If the evaluation requires assessments in more than one area relating to the suspected disability, a team of professionals, including at least one teacher or other specialist with knowledge in the areas of the suspected disability, completes the assessments. A part of the evaluation process includes an observation focused on academic performance in the general education classroom that is made by at least one professional on the evaluation team other than the student's teacher. If the student is not school-age, the observation is conducted in an environment appropriate for a child of that age which may include the home or a preschool setting.

All areas related to the suspected disability are assessed by qualified professionals which may

include, as appropriate, health, vision, hearing, social and emotional development, general intelligence, academic performance, communication skills, motor skills, and adaptive behavior. Evaluation components may include educational, medical, sociocultural, psychological, or developmental assessments. Hearing is screened for all students during an initial eligibility evaluation. If the student has a hearing impairment or deafness, or if the student fails two hearing screening tests, a complete audiological evaluation, including tests to assess inner and middle ear functioning are conducted.

The evaluation reports are available to parents at the student's school at least two business days prior to the meeting to determine eligibility. A written copy of the reports are provided to parents prior to or at the meeting where the eligibility team reviews the reports, or immediately following the meeting, but no later than 10 days after the meeting. Copies of the evaluation reports are provided at no cost to parents.

If a student transfers to Virginia Beach City Public Schools during the evaluation process, the Virginia Beach City Public Schools works with the student's previous school and/or school division to ensure that the student's evaluation and eligibility determination are promptly completed. In this instance, the 65 day business timeline for the completion of the evaluation and eligibility process may be extended if the following requirements are met:

- 1) the parent and the SEC agree to extend the timeline and set a mutually-agreeable date upon which the evaluation and eligibility process will be completed, and
- 2) sufficient progress is being made to ensure a prompt completion of the evaluation.

Reevaluations are conducted at least every three years, unless the Virginia Beach City Public Schools and the parent agree that a reevaluation is not necessary.

Reevaluations may be conducted more frequently if the Virginia Beach City Public Schools determines that it needs new information to determine the student's educational or related services needs, including improved academic achievement and functional performance, or if the parent or teacher requests a reevaluation. Upon the request from a parent or teacher, the SEC, consistent with the make-up of the IEP team, convenes to discuss the request and determine what, if any, evaluation components will be conducted. Evaluations will not be conducted more than once per year unless the parent and Virginia Beach City Public Schools agrees otherwise. Prior written notice that meets the requirements in the Virginia Regulations, at 8 VAC 20-81-170 C., are provided the parent in regard to the reevaluation request decision.

For a student who is home-schooled, home-tutored, or who is parentally-placed in a private school at the parent's expense, the Virginia Beach City Public Schools is not permitted to use mediation or due process to pursue consent from a parent who refuses to provide consent for an evaluation or reevaluation, or who fails to respond to a request for consent. In this instance, the student will not be evaluated, and will not be eligible for equitable services as a parentally placed student under 8 VAC 20-81-150 of Virginia Regulations.

The Virginia Beach City Public Schools is not be required to evaluate a student solely because

the student is graduating with a standard or advanced diploma, even though this will be considered a change in placement. Prior written notice, however, is provided to parent(s) informing them that upon graduation the student will no longer be eligible for special education and related services. In addition, the Virginia Beach City Public Schools ensures that all other requirements of the Virginia Regulations, at 8 VAC 20-81-170, regarding prior written notice, are met.

ELIGIBILITY DETERMINATION

8 VAC 20-81-80

Following the completion of the administration of the assessments and other evaluation instruments, or after a determination by the SEC that additional data was not needed, the eligibility team determines if the student is or continues to be a student with a disability and the student's educational needs. The eligibility decision is made on an individual basis.

The eligibility team, at a minimum, meets the composition of the IEP team. This team includes personnel representing the disciplines providing the assessments, the school principal/designee, the parent, a special education teacher, at least one general education teacher of the student (or someone qualified to teach the student of that age if the student does not have a teacher or if the student is a preschooler), and at least one person qualified to conduct individual diagnostic examinations (such as a school psychologist, speech pathologist, or remedial reading teacher). This team is qualified to conduct individual diagnostic assessments in the areas of speech and language, academic achievement, intellectual development and social-emotional development, as appropriate; interpret the assessment and intervention data; apply critical analysis to the data; and develop appropriate educational and transitional recommendations based on the assessment data. The eligibility team provides the parent with procedural safeguards in accordance with the Virginia Regulations, at 8 VAC 20-81-170, including the notice requirements, when determining eligibility and in ensuring the confidentiality of records.

When interpreting data to determine whether or not a student is a student with a disability and to determine the student's educational needs, the team carefully considers, and documents its use of information from a variety of sources, including all of the assessments prescribed by the school-based team for the evaluation, aptitude and achievement tests, parent input and teacher recommendations, as well as information about the student's physical condition, social or cultural background, and adaptive behavior. At this time, Virginia Beach City Public Schools has not initiated eligibility determinations based on information obtained as a result of the student's participation in a school division's response to intervention (RtI) process. Should the division develop an RtI process, the SEC may use that process as evaluative information for determining eligibility as specified in IDEA and the Regulations. The team also considers any evaluation information provided by the parent(s).

Prior to determining a student's eligibility, the eligibility team reviews information from an observation of the student. The observation must have occurred in the student's learning environment (including the general education classroom setting), and it must have documented the student's academic performance and behavior in the area of difficulty. The observation may

have occurred in routine classroom instruction and monitoring of the student's performance before the student was referred for an evaluation. If no prior acceptable observation is available, at least one member of the eligibility team conducts an observation of the student's academic performance in the general education classroom after the student was referred for an evaluation and parental consent was obtained. (For preschool children, or a student out of school, the team member observes the child in an environment appropriate for a child of that age.)

The team analyzes the data against the eligibility criteria. The team only finds a student eligible for special education and related services if the student meets the eligibility criteria to be a student with a disability, and if the team finds that there is documented evidence that as a result of the student's disability, the student needs special education and related services. Lack of appropriate instruction in the essential components of reading instruction (including phonemic awareness, phonics, vocabulary development, reading fluency including oral reading skills, and reading comprehension strategies), a lack of appropriate instruction in math, or a student's limited English proficiency are considered and, if these are determining factors, the student can not be found eligible.

The eligibility team considers, as part of the evaluation, data that demonstrates that prior to, or as part of the referral process, the student was provided appropriate high-quality, researched-based instruction in general education settings, consistent with the requirements of the No Child Left Behind Act, at §1111(b)(8)(D) and (E), including that the instruction was delivered by qualified personnel. There must be data-based documentation that repeated assessments of achievement at reasonable intervals, reflecting that formal assessment of student progress during instruction was provided to the student's parents.

The team works toward consensus in reaching its decision. When the team does not reach consensus and the decision does not reflect a member's conclusion, the dissenting team member is required to submit a written statement indicating the member's conclusion. Written parental consent is secured for the initial eligibility determination and any change in categorical identification.

A child, aged two, who was previously served by Part C, must meet the criteria of Part B in order to be provided special education and related services. For a child served by Part C after age two, and whose third birthday occurs during the summer, the IEP team for an eligible child determines when the child will begin to receive Part B services, thus transitioning from Part C to Part B.

A student will only be provided related services when found eligible for special education. Once a student is found eligible for special education, the IEP team makes decisions about the student's need for related services, and may request an evaluation, if determined necessary. All information presented is documented and summarized during the meeting. A summary of deliberations is included as the basis for the determination of eligibility and a written statement from any member who disagrees with the team's conclusion. The summary may include other recommendations, is maintained in the student's scholastic record, and is forwarded to the IEP team, including the parent, following the eligibility determination.

For a student found not eligible, information relevant to instruction is provided to the student's teachers or any appropriate committee. In addition, prior written notice, in accordance with 8 VAC 20-81-170, is given to the parent including the parent's right to appeal the decision through the due process hearing procedures. If the student is parentally-placed in a private school within the Virginia Beach City Public Schools, but the parent resides in a different locality, parent consent is secured before sharing the information with another school division.

The eligibility team provides the parent, at no cost, a copy of all of the documentation regarding the eligibility determination. This documentation includes a statement of:

- 1) Whether the student has a specific disability.
- 2) The basis for making the determination including an assurance that the eligibility determination was made in accordance with the Virginia Regulations regarding determining eligibility and educational need.
- 3) The relevant behavior, if any, noted during the observation of the student and the relationship of that behavior to the student's academic functioning.
- 4) The educationally relevant medical findings, if any.
- 5) If the student participated in any response to intervention process (8 VAC 20-81-50 D.4 8 VAC 20-81-80 D.6), a statement of the instructional strategies used and the student - centered data collected during that process. This document must also include:
 - a) Information regarding the school division's notification to the parent of the Virginia Department of Education's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;
 - b) The strategies that were used to increase the student's rate of learning; and
 - c) The parent's right to request an evaluation.
- 6) If a student is determined eligible as a student with a specific learning disability, Virginia Beach City Public Schools documents that the eligibility team's determination was consistent with each of the requirements of 8 VAC 20-81-80 T. 2.

Within 30 calendar days of an initial determination of eligibility, an IEP is developed for the student in accordance with the requirements in the Virginia Regulations, at 8 VAC 20-81-110. Following a reevaluation, unless there is a change in the student's eligibility for special education and related services or a change in the student's educational needs, or unless the parent requests a meeting to review and revise the student's IEP, the IEP team is not required to convene.

SURROGATE PARENTS

8 VAC 20-81-220

The Parent Support and Information Center Coordinator/designee is responsible for identifying those who are willing and qualified to serve as surrogate parents.

To be qualified as a surrogate parent, an individual must have no personal or professional interest that conflicts with the interest of the student, have knowledge and skills that will ensure adequate

representation of the student, be of the age of majority, and not be an employee of the Virginia Department of Education, Virginia Beach City Public Schools, or any other agency that is involved in the education or care of the student. If otherwise qualified, a person will not be considered to be an “employee” solely because they are paid to serve as a surrogate parent.

If the student is an unaccompanied homeless youth, the Parent Support and Information Center Coordinator /designee may permit appropriate staff of an emergency shelter, transition shelter, independent living program, or street outreach program to be appointed as a temporary surrogate even though the staff member is an employee of an agency that is involved in the education or care of the student. The temporary surrogate must meet the other qualifications for a surrogate parent, and may serve only until a surrogate parent meeting all of the qualifications for a surrogate parent can be assigned.

While every effort is made to secure individuals willing to serve as surrogates from within the Virginia Beach City Public Schools’ jurisdiction, individuals from outside the jurisdiction may be secured if necessary to ensure that someone qualified is available to represent the needs of the students in meetings pertaining to special education eligibility and services. In addition, other individuals may be eligible to serve as a surrogate once a need is identified, such as a student’s relative, depending on the student’s needs, and the availability of qualified persons familiar with the student and who would otherwise qualify. The Parent Support and Information Center Coordinator /designee may involve the student in the selection, if appropriate.

When a school cannot identify or with reasonable efforts locate someone who qualifies as a “parent” in accordance with the Virginia Regulations, the school where the student attends contacts the Parent Support and Information Center Coordinator /designee who confirms the need for a surrogate and appoints a surrogate within 30 calendar days for the student, if one is needed. Once appointed, the student (as appropriate to the disability), the appointed surrogate parent, and the person charged with the responsibility for the student will be notified in writing by the Parent Support and Information Center Coordinator/designee that the appointment has been made. The surrogate parent is assigned to serve for the duration of the school year unless a shorter period of time is appropriate given the content of the student’s IEP. At the end of each school year, following a review, a determination is made regarding whether the appointment of a surrogate parent will be renewed or not. Appointments may also be extended as needed, if the student requires the services of a surrogate during the summer months.

Termination of a surrogate parent occurs when the student reaches the age of majority and rights are transferred to the student or to an educational representative who has been appointed in accordance with the transfer of rights procedures; when the student is no longer eligible for special education services and the surrogate parent has consented to the termination of services; when legal guardianship has transferred to a person who can serve as the parent in special education matters; when the parent whose whereabouts previously were unknown is now known and the parent is available; or when the appointed surrogate is no longer qualified.

If a surrogate wants to challenge the surrogate qualifications, or if the surrogate is terminated prior to the end of the appointment and wishes to appeal the decision, a request for a hearing may

be made to the Director of the Office of Programs for Exceptional Children who will convene a panel which shall include a principal, a school social worker, and a school board attorney who will hear evidence presented and make a decision.

RECORDING MEETINGS
8 VAC 20-81-170 J

The Virginia Beach City Public Schools limits the use of audio recordings to those situations required in the Virginia Regulations.

The Virginia Beach City Public Schools does not allow the use of video recording for all situations in which audio recordings are required in the Virginia Regulations.

MEETING EXCUSAL of IEP TEAM MEMBER
8 VAC 20-81-110 D

The Virginia Beach City Public Schools permits required members of the IEP team to be excused from attending the IEP team meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services, if the parent and Virginia Beach City Public Schools consent in writing to the excusal, and if prior to the meeting, the member provides the parent and the IEP team written input into the development of the student's IEP.

IEP AMENDMENTS
8 VAC-20-81-110

After a student's annual IEP team meeting for the school year, the parent(s) and the Virginia Beach City Public Schools may agree to develop a written amendment to a student's IEP without convening an IEP meeting under certain circumstances (see Administrative Guidelines – Modification of IEP). If changes are made to a student's IEP without a meeting, the special education administrator/designee ensures that the staff members serving the student are informed of the changes, that the parent is provided a revised copy of the student's IEP with the amendment incorporated, and the parent is provided prior written notice. This process is never a substitute for the required annual IEP meeting.

DISPROPORTIONALITY
8 VAC 20-81-20 #25

In the event that Virginia Beach City Public Schools is found to have significant disproportionality based on race and ethnicity in the identification and placement of students with disabilities, it reviews and revises its policies, procedures, and practices to ensure compliance with disproportionality requirements. Such changes are reported publicly. Virginia Beach City Public Schools responds to the Virginia Department of Education's reporting requirements for school divisions on local data relative to disproportionality, and as necessary, develops corrective measures.

LONG-TERM REMOVALS

8 VAC 20-81-20 #31

In the event that Virginia Beach City Public Schools is found to have discrepancies in the rate of long-term suspensions and expulsions of students with disabilities, including by race or ethnicity, as compared to the rates for students without disabilities, the Virginia Beach City Public Schools will review its policies, procedures, and practices related to the development and implementation of IEPs, the use of positive behavioral interventions and supports, and procedural safeguards to ensure that students with disabilities are not inappropriately long-term suspended or expelled. The Virginia Beach City Public Schools will respond to the Virginia Department of Education's reporting requirements for divisions on local data relative to long-term suspensions and expulsion of students with disabilities, and as necessary, corrective measures.

RESIDENCY

8 VAC 20-81-30 I

The Virginia Beach City Public Schools does not allow students with disabilities who are not residents of Virginia but are living temporarily with adults who do not otherwise meet the definition of parent(s) residing within a school division to be admitted to the school division for special education and related services.

HEARING—STUDENT RECORDS

8 VAC 20-81-170 G.7 & 9

The Family Educational Rights and Privacy Act, 20 U.S.C., Section 1232g; 34 CFR Part 99, (FERPA) allows parents to request that a student record be amended when they contend that the record is inaccurate, misleading, or otherwise a violation of the privacy rights of a student. In Virginia Beach City Public Schools, these procedures allow for the resolution of requests for amending student records according to the following process.

- 1) Parents must make a written request to amend a student record. The written statement should include the reasons the parent contends that the record is misleading, inaccurate or a violation of the student's privacy rights. The written request must be sent to the school principal.
- 2) The school principal or the principal's designee will consider the parent's request.
- 3) The principal or the principal's designee will respond to the parent within five (5) days of receipt of the request. If the principal or the principal's designee determines that the record is misleading, inaccurate or a violation of the student's privacy rights, the record

will be amended. The principal or the principal's designee will give the parent written notice of the decision to amend the record.

- 4) If the principal or the principal's designee decides not to amend the record, the parent will be notified in writing. In the letter, the parent must be informed of the right to a hearing.
- 5) The parent may thereafter request a hearing on the decision not to amend the student record.
 - a) The request for a hearing must be made in writing within five (5) days of the date of the written decision declining to amend the record. The written request for a hearing must be submitted to the Director of the Office of Guidance Services and Student Records.
 - b) The request should include an explanation of the nature of the parent's claim that the records are inaccurate, misleading, or a violation of the student's privacy rights.
- 6) The Office of Guidance Services and Student Records will schedule an impartial hearing within five (5) days of the parent's request for a hearing. The parent and school principal will be notified of the date, time and location of the hearing. The parties will be given notice of the hearing date within a reasonable time period.
- 7) If the parent will be assisted by an advocate, representative, or attorney, the parent must notify the Office of Guidance Services and Student Records at least forty-eight (48) hours prior to the hearing. The parent must sign a release authorizing the representative/ advocate/attorney to participate in the hearing and receive copies of relevant materials.
- 8) If the parent is an attorney or intends to bring an attorney, the Division will likewise be represented by legal counsel.
- 9) The parties will have the opportunity to present relevant evidence at the hearing.
- 10) The scope of the hearing will be limited to determining whether or not the challenged records are inaccurate, misleading, or otherwise a violation of the student's privacy rights.
- 11) In the event the hearing officer determines that the record is not misleading, inaccurate or a violation of the student's privacy rights and therefore should not be amended, the parent

will be informed in writing of the right to place a statement in the student record. The statement will be kept and disclosed with the challenged record.

SECTION 504 GRIEVANCE PROCEDURES
8 VAC 20-81-330

The Virginia Beach City Public Schools will use the Virginia special education hearing officer system specified in 8 VAC 20-81-210 to resolve disputes regarding the identification, evaluation, or educational placement of qualified persons who have a disability under Section 504. Required costs associated with such hearings will be incurred by the Virginia Beach City Public Schools.