

## INSTRUCTION

It shall be the intent of the Lynchburg City Schools to provide a program of special education which will be in compliance with state and federal laws and regulations.

1. Lynchburg City Schools will provide a free appropriate public education to each child with disabilities, ages two to 21, inclusive. (Free Appropriate Public Education)
2. All children, ages two to 21, inclusive, residing in the City of Lynchburg, who have disabilities and need special education and related services are identified, located, evaluated and placed in an appropriate educational program. (Child Identification)
3. Children with disabilities and their parents or guardians are guaranteed procedural safeguards in the process of identification, evaluation or educational placement or the provision of a free appropriate public education. (Procedural Safeguards)
4. To the maximum extent appropriate, children with disabilities will be educated with children who are non-disabled. (Least Restrictive Environment)
5. Confidential records of children with disabilities shall be properly maintained. (Confidentiality)
6. Testing and evaluative materials used for the purpose of classifying and placing children with disabilities are selected and administered so as not to be racially or culturally discriminatory. (Protection in Evaluation Process)
7. An individualized education program will be maintained for each child with a disability. (Individualized Education Program)
8. Surrogate parents will be appointed, when appropriate, to act as advocates to serve the educational interest of children, ages two to 21, inclusive, who are suspected of being or are determined to be disabled. (Surrogates)
9. A comprehensive system of personnel development, to include the inservice training of general and special education instructional and support personnel, related to the needs of children with disabilities is provided. (Comprehensive System of Personnel Development)
10. Program evaluation shall be conducted annually. (Program Evaluation)
11. There will be on-going parent consultation. (Parent Involvement)
12. A full educational opportunity goal is provided for all children with disabilities, from birth to age 21, inclusive, including appropriate career education, prevocational education, and vocational education. (Full Opportunity)
13. Children with disabilities are given the right of participating in the Literacy Testing

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Program. (Literacy Testing Program)

Legal Reference:

Code of Va., § 22.1-253.13.1. Standard 1. Basic skills, selected program and instructional personnel.--. . . D. Local school boards shall also implement the following:

6. Early identification of handicapped students and enrollment of such students in appropriate instructional programs consistent with state and federal law . . . ." (1997)

Code of Va., § 22.1-213. Definitions.--"Children with disabilities" means those persons (i) who are aged two to twenty-one, inclusive, having reached the age of two by the date specified in §22.1-254, (ii) who are mentally retarded, physically disabled, seriously emotionally disturbed, speech impaired, hearing impaired, visually impaired, multiple disabled, other health impaired including autistic or who have a specific learning disability or who are otherwise disabled as defined by the Board of Education and (iii) who because of such impairments need special education.

"Related services" means transportation and such developmental, corrective, and other supportive services as are required to assist a disabled child to benefit from special education, including speech pathology and audiology, psychological services, physical and occupational therapy, recreation, early identification and assessment of disabilities in children, counseling services and medical services for diagnostic or evaluation purposes. The term also includes school health services, social work services in schools, and parent counseling and training.

"Special education" means specially designed instruction at no cost to the parent, to meet the unique needs of a disabled child, including classroom instruction, home instruction, instruction provided in hospitals and institutions, instruction in physical education and instruction in vocational education.

"Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or do mathematical calculations. The term does not include children who have learning problems which are primarily the result of visual, hearing or motor handicaps, of mental retardation, or of environmental, cultural or economic disadvantage. (1997)

Code of Va., § 22.1-214. Board to prepare special education program for handicapped children. 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

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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 which will assess inner and middle ear functioning, be performed on each child who is hearing impaired or who fails the test required in clause (i). The school boards of the several school divisions, the Department for the Visually Handicapped, the Department for the Deaf and Hard-of-Hearing, the Department of Health and other state and local agencies which 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 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.

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 of this section may 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.

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 which comply with regulations established by the Board, the Board may withhold all special education moneys from the school division and may use the payments which would have been available to such school division to provide special education, directly or by contract, to eligible children with disabilities in such manner as the Board considers appropriate.

F. The Board of Education shall supervise educational programs for children with disabilities by other public agencies and shall ensure that the identification, evaluation

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and placement of children with disabilities and youth in education programs by other public agencies, as appropriate, are consistent with the provisions of the Board of Education's special education regulations.

G. The Board of Education shall prescribe regulations to provide a range of assessment procedures for the evaluation of children with disabilities. These regulations shall include provision for parents to participate, if they so request, in the consideration of the assessment components to be used. However, such regulations shall not require any local school board to exceed the requirements of federal law or regulations for the identification and evaluation of children with disabilities. (1997)

Code of Va., § 22.1-215. School divisions to provide special education; plan to be submitted to the Board.--" Each school division shall provide free and appropriate education, including special education, for the children with disabilities residing within its jurisdiction in accordance with regulations of the Board of Education.

For the purposes of this section, "children with disabilities, residing within its jurisdiction" shall include: (i) those individuals of school age identified as appropriate to be placed in public school programs, who are residing in a state institution operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services located within the school division, or (ii) those individuals of school age who are Virginia residents and are placed and living in a foster care home or child-caring institution or group home located within the school division and licensed under the provisions of Chapter 10 (§63.1-195 et seq.) of Title 63.1 as a result of being in the custody of a local department of social services or welfare or being privately placed, not solely for school purposes.

The Board of Education shall promulgate regulations to identify those children placed within facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services who are eligible to be appropriately placed in public school programs. (1996)

Code of Va., § 22.1-216. Use of public or private facilities and personnel under contract for special education.--"

A school board may provide special education for children with disabilities either directly with its own facilities and personnel or under contract with another school division or divisions or any other public or private nonsectarian school, agency or institution licensed or certified by the Board of Education or by a licensing authority in the state where the facility is located. Special education for children below the compulsory school attendance age may be provided in nonsectarian child-day programs licensed in accordance with state law. (1996)

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Code of Va., § 22.1-217. Visually impaired children. A. Special education for visually impaired children provided by a school division shall be established, maintained and operated jointly by the school board and the Virginia Department for the Visually Handicapped subject to the regulations of the Board of Education. Braille instruction shall be included in the student's Individualized Education Plan (IEP), whenever appropriate. When developing the IEP for students with visual impairment, the presumption shall be that proficiency in literacy is essential for such student to achieve satisfactory educational progress. However, use of Braille shall not be required if other special education services are more appropriate to the student's educational needs, and the provision of other appropriate services shall not preclude Braille instruction.

B. The Virginia Department for the Visually Handicapped shall prepare and deliver a program of special education services in addition to the special education provided in the public school system designed to meet the educational needs of visually impaired children between the ages of birth and twenty-one and may prepare and deliver such programs for such individuals of other ages. In the development of such a program, the Virginia Department for the Visually Handicapped shall cooperate with the Board of Education and the school boards of the several school divisions.

C. As used in this section:

"Braille" means the system of reading and writing through touch and is commonly known as standard English Braille Grade 2.

"Program" means a modified program which provides special materials or services and may include the employment of itinerant teachers or resource room teachers for the visually impaired.

"Visually impaired" shall be defined by the Board of Education and the Virginia Department for the Visually Handicapped. (1995)

Code of Va., § 22.1-218. Reimbursement of parents or guardian of handicapped children in private schools; reimbursement of school boards from state funds. A. If a child's individualized education program calls for placement in a private nonsectarian school, agency, or institution, payment for reasonable tuition cost and other reasonable charges shall be made from the state pool of funds pursuant to §2.1-757.

B. Where a school board enters into an agreement with the Woodrow Wilson Rehabilitation Center or a special education regional program established pursuant to regulations of the Board of Education, the Board of Education is authorized to reimburse the school board from such funds as are appropriated for this purpose.

C. The Board of Education is further authorized to reimburse each school board operating a preschool special education program for children with disabilities aged two

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through four, through the Standards of Quality Special Education account. (1997)

Code of Va., § 22.1-218.1. Duty to process placements through the Interstate Compact on the Placement of Children. A. If a child's individualized education program calls for placement in a private nonsectarian school, agency, or institution, payment for reasonable tuition cost and other reasonable charges shall be made from the state pool of funds pursuant to §2.1-757.

B. Where a school board enters into an agreement with the Woodrow Wilson Rehabilitation Center or a special education regional program established pursuant to regulations of the Board of Education, the Board of Education is authorized to reimburse the school board from such funds as are appropriated for this purpose.

C. The Board of Education is further authorized to reimburse each school board operating a preschool special education program for children with disabilities aged two through four, through the Standards of Quality Special Education account. (1994)

Code of Va., § 22.1-219. Use of federal, state or local funds not restricted.--"Nothing in this article shall be construed to restrict or prohibit the use of any federal, state or local funds made available under any federal, state or local appropriation or grant." (1980)

Code of Va., § 22.1-220. Power of counties, cities and towns to appropriate and expend funds for education of handicapped children.--" The governing body of any county, city or town is hereby authorized and empowered to appropriate and expend funds of the county, city or town in furtherance of the education of children with disabilities residing in such county, city or town who attend Woodrow Wilson Rehabilitation Center or public or private nonsectarian schools, or public or private nonsectarian child-day programs for children below the compulsory school attendance age, whether within or without the county, city or town and whether within or without the Commonwealth. (1994)

Code of Va., § 22.1-221. Transportation of handicapped children attending public or private special education programs. A. Each disabled child enrolled in and attending a special education program provided by the school division pursuant to any of the provisions of § 22.1-216 or §22.1-218 shall be entitled to transportation to and from such school or class at no cost if such transportation is necessary to enable such child to obtain the benefit of educational programs and opportunities.

B. A school board may, in lieu of providing transportation on an approved school bus, allot funds to pay the reasonable cost of special arrangement transportation. The Board of Education shall reimburse the school board sixty percent of such cost if funds therefor are available.

C. Costs for operating approved school buses which are equipped or used primarily for

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transporting children with disabilities shall be reimbursed according to the regulations promulgated by the Board of Education from such state funds as are appropriated for this purpose. (1996)

Editor's Note: The text of § 22.1-221 is quoted at # 4-67 of this manual.

Virginia Board of Education Regulations, "Special Education Program Students for Handicapped Children and Youth in Virginia." (February, 1994 as amended)

Adopted by School Board: December 17, 1974

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