



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES

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P.O. Box 2120
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MAY - 1 2005

Dear Superintendent DeMary:

The purpose of this letter is to inform you of the results of the Office of Special Education Programs' (OSEP's) recent verification visit to Virginia. As I explained in my letter to you of January 10, 2005, OSEP is conducting verification visits to a number of States as part of our Continuous Improvement and Focused Monitoring System (CIFMS) for ensuring compliance with, and improving performance under, Parts B and C of the Individuals with Disabilities Education Act (IDEA). OSEP conducted the Part B visit to Virginia during the week of March 7, 2005.

The purpose of our verification reviews of States is to determine how they use their general supervision, State-reported data collection, and Statewide assessment systems to assess and improve State performance and to protect child and family rights. The purposes of the verification visits are to: (1) understand how the systems work at the State level; (2) determine how the State collects and uses data to make monitoring decisions; and (3) determine the extent to which the State's systems are designed to identify and correct noncompliance.

As part of the verification visit to the Virginia Department of Education (VDOE), OSEP staff met with Assistant Superintendent H. Douglas Cox (the State's Director of Special Education), and members of VDOE's staff who are responsible for: (1) the oversight of general supervision activities (including monitoring, mediation, complaint resolution, and impartial due process hearings); (2) the collection and analysis of State-reported data; and (3) ensuring participation in, and the reporting of student performance on Statewide assessments. Prior to and during the visit, OSEP staff reviewed a number of documents¹, including the following: (1) Virginia's Part B State Improvement Plan; (2) the Biennial Performance Report for grant years 1999-2000 and 2000-2001 and the Federal fiscal year (FFY) 2002 Annual Performance Report (APR); (3) VDOE's Part B Monitoring Manual document; (4) descriptions of numerous Statewide initiatives; (5) tracking logs for complaints, mediations, and due process hearings; and (6) information on VDOE's website regarding the Statewide assessment system. OSEP conducted a conference call on February 2, 2005 with members of Virginia's Advisory Board, to hear their perspectives on the strengths and weaknesses of the State's systems for general supervision, data collection and reporting, and Statewide assessment. Mr. Cox and VDOE staff also participated in the call and assisted us by inviting the participants. In addition, OSEP conducted a conference

¹ Documents reviewed as part of the verification process were not reviewed for legal sufficiency but rather to inform OSEP's understanding of your State's systems.

call regarding the same topics on February 14, 2005, with representatives from a number of groups that represent children with disabilities and their families.

The information that Mr. Cox and other VDOE staff provided during the OSEP visit, together with all of the information that OSEP staff reviewed in preparation for the visit, greatly enhanced our understanding of VDOE's systems for general supervision, data collection and reporting, and Statewide assessment.

General Supervision

In looking at the State's general supervision system, OSEP collected information regarding a number of elements, including whether the State: (1) has identified any barriers (e.g., limitations on authority, insufficient staff or other resources, etc.) that impede the State's ability to identify and correct noncompliance; (2) has systemic, data-based, and reasonable approaches to identifying and correcting noncompliance; (3) utilizes guidance, technical assistance, follow-up, and—if necessary—sanctions, to ensure timely correction of noncompliance; (4) has dispute resolution systems that ensure the timely resolution of complaints and due process hearings; and (5) has mechanisms in place to compile and integrate data across systems (e.g., 618 State-reported data, due process hearings, complaints, mediation, large-scale assessments, previous monitoring results, etc.) to identify systemic issues and problems.

Monitoring

VDOE informed OSEP that, since 1996, it has monitored school divisions on a six-year cycle. Approximately 22 of the State's 132 school divisions begin VDOE's three-phase monitoring process by submitting a self-assessment each May. VDOE assigns one of three State-level monitoring staff to take the lead in working with each local school division throughout the monitoring process.

VDOE requires each school division to conduct a self-assessment. Each year in late July or early August, VDOE conducts a Summer Monitoring Institute for all school divisions that will be submitting a self-assessment by May 15 of the following year. The assigned VDOE monitoring staff person makes at least three contacts (through a combination of meetings, phone contacts and other methods) with each school division while it is developing its self-assessment, in order to provide any needed technical assistance and other support. VDOE informed OSEP that, while some school divisions are more thorough than others: (1) the majority produce candid and largely accurate self-assessments; (2) VDOE has a high level of confidence regarding the accuracy of the self-assessment process; and (3) the quality of school divisions' self-assessments has improved overall from the first cycle, which began in 1996, to the second cycle, which began in 2002.

School divisions use a variety of terms (including "noncompliance" and "concerns") to label practices that are inconsistent with the law, but VDOE requires all school divisions to correct any violations of the law regardless of what they are called. VDOE has directed school divisions to correct any noncompliance as quickly as possible (VDOE describes this message to school divisions as "find it, fix it"), and to include a plan, including timelines, for correcting any

noncompliance, as part of their self-assessments. When VDOE receives a school division's self-assessment, the assigned staff person reviews it to ensure that it is complete and includes an appropriate corrective action plan (CAP) for any areas of noncompliance. If VDOE determines that there are gaps in the self-assessment, it works with the school division to complete the self-assessment and to ensure the appropriateness of the CAP and CAP timelines. VDOE informed OSEP of its expectation that—with the exception of areas of noncompliance for which the approved timeline has not yet elapsed by the time of VDOE's visit—a school division has corrected each of the areas of noncompliance that the division identified through its self-assessment, by the time of VDOE's on-site visit.

During the school year after a school division submits its self-assessment, VDOE conducts an on-site visit to: (1) validate the accuracy of the school division's self-assessment; (2) determine the extent to which the school division has corrected any noncompliance that has been identified; and (3) identify any additional areas of noncompliance. VDOE reported that the on-site review team focuses on areas most closely linked to student academic achievement, such as: (1) child find, evaluations and eligibility determination; (2) access and supports in the general education curriculum; (3) participation in the Statewide assessment program; (4) development and implementation of individualized education programs (IEPs); (5) discipline; (6) secondary transition; (7) parent involvement; and (8) out-of-district placements. VDOE tailors the scope and intensity of each on-site visit to the school division. VDOE indicated that, within three to six weeks after an on-site monitoring visit, VDOE's director of Federal Program Monitoring issues a monitoring report to the school division's superintendent.

As part of its general supervisory responsibility, VDOE must ensure that all public agencies correct any identified deficiencies within a reasonable period of time, not to exceed one year from identification (20 U.S.C. 1232(b)(3)(E)). To ensure that VDOE's monitoring system is consistent with Part B, VDOE would have the option of either: (1) requiring a school division that has identified noncompliance in its self-assessment to ensure correction of the noncompliance within a reasonable period of time from the date when VDOE verifies the noncompliance during an on-site visit following submission of the school division's self-assessment; or (2) requiring a school division to ensure correction of the noncompliance that it identified in its self-assessment within a reasonable period of time from the date when VDOE approves an Improvement Plan to correct the identified noncompliance that the school division submits to address the noncompliance it identified in the self-assessment.

VDOE reported that it sets timelines for correction, ranging from immediately to up to one year. For situations in which students are waiting for services, VDOE requires the school division to provide evidence that it has initiated correction prior to the end of the VDOE visit.

If VDOE finds during the on-site visit that a school division has not completed correction of previously-identified noncompliance, it will conduct one or more follow-up visits. VDOE reported that if it finds that noncompliance continues at the time of the follow-up visit, it then requires 30-day, 60-day, or quarterly progress reports, and may also follow-up through frequent visits and/or telephone contacts.

VDOE informed OSEP that five of the 44 school divisions that submitted self-assessments in May 2003 or May 2004 did not correct all of the noncompliance that they identified in their self-

assessments within one year from the date on which they submitted the self-assessments, but had corrected any remaining noncompliance by the time of OSEP's March 2005 verification visit. VDOE further informed OSEP that 40 of the 44 school divisions in which VDOE conducted an on-site visit during the 2001-2002 and 2002-2003 school years had corrected any noncompliance that VDOE identified within one year from the date of VDOE's visit, and the other four divisions had corrected any remaining noncompliance by the time of OSEP's March 2005 verification visit. Though this reflects that ten per cent of the noncompliance identified through VDOE's on-site monitoring was not corrected within one year of VDOE's identification, during the OSEP verification visit, VDOE informed OSEP that it would begin, immediately, to track noncompliance from one year of VDOE's identification. VDOE has already begun to provide such tracking data.

To verify correction of noncompliance, VDOE requires school divisions to submit documentation of correction. VDOE informed OSEP that, in some cases, it continues to work with a school division, even once VDOE has determined that the division has corrected the noncompliance, in order to ensure that the division maintains compliance and/or to focus on continuous improvement.

VDOE informed OSEP that it has utilized various enforcement actions with school divisions that demonstrate noncompliance, including: (1) conducting more frequent on-site visits, making telephone contacts; (2) requiring continued progress reports; (3) calling or meeting with the local superintendent; (4) returning for another full on-site visit; and (5) requiring the school division superintendent to meet with the State Superintendent. VDOE withheld one school division's Part B funds regarding an implementation issue following approval of the division's local application for Part B funds; however, VDOE typically uses this sanction for issues that arise in connection with its disapproval of local applications for Part B funds.

VDOE informed OSEP that it monitors compliance for children with disabilities who have been publicly-placed in in-state and out-of-state residential and private day schools a number of ways: (1) each school division must review compliance for such children as part of its self-assessment; (2) VDOE reviews the files for these children when it conducts its on-site visit to the division that placed them in a private setting; and (3) except for out-state placements, VDOE monitors to ensure the provision of a free appropriate public education (FAPE) to these children by visiting the private schools during a three-year licensure cycle. VDOE explained that it also conducts on-site visits to the programs in adult and juvenile State correctional facilities operated by the Department of Correctional Education (DCE).

VDOE reported that it monitors the services provided to youth with disabilities in nursing facilities and local jails in a number of ways: (1) each school division must review compliance for such children and youth as part of its self-assessment; (2) VDOE reviews the files for these children and youth when it conducts its on-site visit to the division; and (3) VDOE monitors to ensure the provision of FAPE to these students by making on-site visits.

VDOE informed OSEP that State-operated programs are monitored by an interdepartmental group including the Department of Mental Health, Mental Retardation, and Substance Abuse, VDOE, Juvenile Justice, and Social Services. State-operated programs include the Schools for

the Deaf and Blind, three hospital programs, and the juvenile “Learning Centers.” VDOE makes annual on-site visits to the Schools for the Deaf and Blind.

OSEP believes that VDOE’s monitoring procedures represent a reasonable approach to the identification and correction of noncompliance. However, without collecting data at the district level, OSEP cannot determine whether the State is fully effective in identifying and correcting noncompliance.

Mediation

Since 1999, VDOE has made mediation available at any time when there is a joint request from the parent and a local educational agency (LEA), regardless of whether a hearing has been requested; approximately three quarters of special education mediation requests have been prior to a request for a due process hearing. The number of mediation requests increased by 38 percent, from 98 in 2002-2003 to 135 in 2003-2004. VDOE informed OSEP that it integrates information regarding the benefits of and procedures for mediation into many of its communications with parents and LEAs, including its parent training presentations and materials, letters to parents and LEAs regarding early resolution of State complaints, conversations with parents who call VDOE regarding disputes with LEAs, etc. VDOE reported that it has used the same seven mediators since the inception of the State’s special education mediation system in September 1999, and that its mediation coordinator works with them in a variety of ways to continuously improve their skills, including observing mediation sessions, coaching and training the mediators on an ongoing basis, having parents and LEA consumers of the mediation services complete an evaluation, and using all of this information to refine the system.

Due Process Hearings

VDOE must ensure that a decision is reached and mailed to the parties within 45 days from the date of receipt of a request for a hearing, unless the hearing officer grants a specific extension of the 45-day timeline at the request of either party (34 CFR §300.511(a) and (c)). VDOE provided OSEP with a hearing log for 65 hearing requests received between June 24, 2004 and February 8, 2005. As shown in the table below, VDOE’s log showed that the State met the requirements of 34 CFR §300.511 for 54 of the 65 requests, and did not meet those requirements for nine of the 65 requests. Two requests were still open at the time of OSEP’s visit.

Status of 65 Hearing Requests Received between June 24, 2004 and February 8, 2005					
Consistent with 34 CFR §300.511 (54/65)				Not consistent with 34 CFR §300.511 (9/65)	
Decision issued within 45 days	Withdrawn, dismissed, settled within 45 days	Decision issued within extended timeline	Due date (initial or extended) beyond 3/11/05	Decision issued beyond extended timeline	Decision after 45 days and extended date not specified
7	33	14	2	5	4

During the visit, VDOE informed OSEP that it has implemented the following strategies to ensure the timeliness of hearing decisions: (1) provision of instructions, coaching, and on-going training to hearing officers regarding their responsibilities for adhering to the 45-day-timeline; (2) coordination between its mediation and hearing coordinators to ensure that mediation does

not delay hearings; (3) formation of a work group to review information from other States regarding their policies, procedures and practices in this area; (4) review of the State’s hearing timeline data for three years to identify any patterns in timeline extensions; (5) review of applicable case law; and (6) funding for development of a guidance document. OSEP accepts these strategies for ensuring compliance with the requirements of 34 CFR §300.511(a) and (c). VDOE must ensure that, as soon as possible and no later than one year from the date of this letter, the State is in compliance with the requirement that a decision is reached and mailed to the parties within 45 days from the date of receipt of a request for a hearing, unless the hearing officer grants a specific extension of the 45-day timeline at the request of either party. The State must submit data and analysis documenting such compliance, no later than 30 days following the one-year timeline.

VDOE reported to OSEP during this visit and as part of its June 30, 2003 Improvement Plan, the following description of the State’s process for ensuring the timely implementation of due process hearing decisions. Upon receipt of a hearing decision, VDOE’s Office of Due Process and Complaints (ODC) issues a letter to the school division requiring it to develop and submit an implementation plan within 45 calendar days of the rendering of the decision or the withdrawal of the hearing request, with a few specified exceptions. ODC staff then review, and approve or disapprove, the improvement plan. Within six months of VDOE’s approval of the plan (or sooner), an ODC staff person reviews the status of the LEA’s implementation of the plan. Once VDOE has received sufficient documentation to verify implementation of the improvement plan, VDOE issues a closure letter. VDOE copies the parent on all communications with the LEA. In addition, if VDOE receives a complaint that an LEA has failed to implement the required corrective actions, VDOE will resolve the matter using its procedures for resolving State complaints.

State Complaints

States must issue a decision for each State complaint within 60 calendar days after the complaint is filed, unless the State extends the timeline due to exceptional circumstances with regard to that particular complaint (34 CFR §300.661(a) and (b)(1)). As shown in VDOE’s Complaint Tracking Log and summarized in the following table, VDOE met those timeline requirements for 58 of 60 Part B State complaints that VDOE received between July 9, 2004 and November 29, 2004.

Complaint Decision Timeline for 60 Complaints Filed between 7/9 and 11/29/04	
<i>Status of Complaint</i>	Number
Resolved within 60 calendar days from the date on which complaint filed	28
Resolved within extended timeline	10
Withdrawn by the complainant	13
In abeyance pending due process hearing decision on the same issues	3
Dismissed because same issues decided in a due process hearing	4
Decision issued beyond the 60-day timeline with no extension	2

Collection of Data under Section 618 of the IDEA

In looking at the State's system for data collection and reporting, OSEP collected information regarding a number of elements, including whether the State: (1) provides clear guidance and ongoing training to local programs/public agencies regarding requirements and procedures for reporting data under section 618 of the IDEA; (2) implements procedures to determine whether the individuals who enter and report data at the local and/or regional level do so accurately and in a manner that is consistent with the State's procedures, OSEP guidance, and section 618; (3) implements procedures for identifying anomalies in data that are reported, and correcting any inaccuracies; and (4) has identified any barriers (e.g., limitations on authority, sufficient staff or other resources, etc.) that impede the State's ability to accurately, reliably and validly collect and report data under section 618.

VDOE uses a web-based individual child record data system³ to collect the data that it needs for the State's reports to OSEP under section 618. VDOE permits each LEA to develop and use its own information reporting system, but requires LEAs to submit all required special education data in a format required by VDOE. As discussed below, VDOE's procedures for collecting each of the five types of data required by section 618 include numerous edit checks and other methods for reviewing and ensuring data accuracy. VDOE indicated, however, that it has not implemented any systematic on-site procedures (such as comparing the child count, educational environment, exiting, and discipline data that a school division submits regarding a student against the documentation in the child's file) to check data accuracy.

VDOE informed OSEP regarding the numerous efforts that the State makes with regard to training school division staff to ensure accuracy and validity for all five types of data required by section 618. These training efforts include individual, small group and large group training, on an as-needed basis. These training efforts address: (1) the required data elements and their definitions; (2) issues related to the electronic data submission; and (3) data editing. Training is also conducted monthly at VDOE's special education directors' council meeting and at local special education directors' regional meetings (these meetings are conducted in all eight superintendents' planning districts across the State).

SPEDSYS (Child Count, Educational Environment and Exiting Data)

For the past three years, VDOE has been using a web-based special education data system called "SPEDSYS" to collect Part B child count, educational environment, and exiting data.

Approximately half of the State's 132 school divisions use the SPEDSYS software to keep their child count, environment, and exiting data, while the other half use other systems. Regardless of the system that a school division uses to keep its data, it must develop a text file in the VDOE-required format for submission to VDOE. Once SPEDSYS receives acceptable reports from all

³ LEAs must assign each child a 12-digit identifier. Presently there is no required format for determining the identifier, but VDOE is moving toward a Statewide uniform system that will assign individualized identification numbers for each student in the system.

LEAs, VDOE runs edit checks for duplicate child records. VDOE informs the affected LEA(s) of any apparent duplicates, and requires them to investigate and resolve them, and then provide signed verification of the status of the apparent duplicates. When VDOE believes that all errors have been resolved, it sends each LEA a report of its child count, environment, and exiting data, and the division's superintendent must sign a "Verification Form" to confirm the accuracy of those data.

Child Count Data. VDOE confirmed that it reports the State's child count data to OSEP using the Federal disability category definitions. VDOE assigns children with "unspecified" race/ethnicity proportionately to the required race/ethnicity categories. VDOE also indicated that it does not include the approximately 1,000 two-year-olds to whom the State serves under Part B in its Part B child count, and sends those numbers to the State's Lead Agency for Part C.

VDOE informed OSEP that the State provides special education and related services to approximately 200 youth with disabilities in juvenile detention facilities, but does not use any Part B funds to provide those services to these youth, and does not include these youth in its Part B child count data. VDOE's practice of not including these youth in its Part B child count is inconsistent with the requirements of section 618 and OSEP's directions to States for data collection, which require that a State include all children receiving FAPE to be included in the child count data. Within 60 days from the date of this letter, VDOE must submit a plan for ensuring that these youth are included in the State's next child count data submission under section 618.

Exiting Data. VDOE confirmed that it includes students with disabilities in the "graduated with diploma" count only if they have met the same requirements for a diploma as non-disabled students, and has included students who have "moved not known to continue" as part of its drop-out count.

Educational Environment Data. Section 618 requires States to report the number of children with disabilities, by race, ethnicity, and disability category, who are participating in: (1) regular education, (2) separate classes, (3) separate schools or facilities, and (4) public and private residential facilities. OSEP's directions to States specifically require them to report the number of children who are educated in a regular school building and outside the regular classroom: (1) less than 21 percent of the school day; (2) more than 21 percent but less than 60 percent of the school day; and (3) more than 60 percent of the school day.

VDOE reported on pages 38 through 41 of the FAPE in the Least Restrictive Environment section of its FFY 2002 Part B APR (submitted to OSEP on March 30, 2004), that its educational environment data showed the percentage of students with disabilities receiving services in the regular school building, but, as noted in OSEP's July 22, 2004 response to the APR, these data did not show the percentage of time students received special education outside the regular classroom. In a conversation between OSEP and VDOE on May 13, 2004 and a May 18, 2004 e-mail, VDOE indicated that: (1) it had reported its Part B educational environment data, based on the percentage of the school day for which each child with a disability *received special education and related services* (rather than the percentage of the school day *for which the child was removed from the regular education classroom*, as required by OSEP's instructions); and

(2) it planned to correct this problem by adding an additional required data element, on the percentage of time students receive special education outside the regular class, starting with the December 1, 2004 child count. In its July 22, 2004 letter, OSEP informed VDOE that it must ensure that its next submission of Part B educational environment data under section 618 was consistent with the requirements of section 618 and OSEP’s directions to States.

OSEP used rank-ordered, State-reported data for selected critical performance areas, including educational environment data, to select States for focused monitoring and intervention in 2005. OSEP informed VDOE in January of 2005 of OSEP’s determination that the data that Virginia submitted for 2002 regarding the restrictiveness of the environments in which it was educating students with disabilities (its educational environment data) were among the lowest-ranked in the nation. VDOE explained to OSEP in an email dated November 24, 2004, that it believed that the above-described error in its submissions of educational environment data (rather than its actual practices regarding placements of students with disabilities) was the cause for the State’s low-ranking data. In its January 10, 2005 letter to the State informing VDOE of the upcoming verification visit, OSEP stated that, as part of its review of the State’s system for collecting and reporting data, OSEP would include a special focus on the impact of VDOE’s recent changes to its data collection procedures to ensure the accuracy of data regarding the educational environments in which children with disabilities were educated. During the verification visit, VDOE explained that its actions included adding the additional required data element, providing guidance and training to the field, and reporting the new “accurate” data to OSEP (see below). OSEP considers this area of focus to be resolved based on the data that VDOE has provided, and these data are summarized in the table below. These data demonstrate a significant increase in the number of children served in less restrictive settings.

Educational Placement of Children with Disabilities ages 6-21						
School Year	Amount of Special Education Received					
	< 21% of day		21-60% of day		> 60% of day	
2003-2004	55,882	37%	56,490	37.4%	38,474	25.6%
2004-2005	87,836	56%	40,491	26%	22,607	14%

Other Data - Discipline

For the past four years, VDOE's reporting of special education discipline data under section 618 has been part of a web-based coordinated collection for school divisions whose reports combine required data elements for the Federal Safe and Drug-Free Schools Act, Federal Gun Free Schools Act, discipline data under section 618 of the IDEA, the State discipline, crime and violence report, and the State school report card. Previously, LEAs submitted these data through five separate data submissions, including a special education data submission. As with SPEDSYS, this data system includes numerous edit checks to help ensure accuracy. When the data have been “cleaned” through the edit check process, VDOE sends the data report back to the LEA, and the LEA’s superintendent must then provide an electronic certification of the accuracy of the data. VDOE’s special education data manager then queries the data system to “pull out” the data that VDOE needs for its special education discipline report under section 618.

Other Data - Personnel

Each LEA submits, through another web-based submission, a text file including information regarding each provider of special education or related services. When the data have been “cleaned” through the edit check process, VDOE sends the data report back to the LEA, and the LEA’s superintendent must then provide an electronic certification of the accuracy of the data.

Statewide Assessment

In looking at the State’s system for Statewide assessment, OSEP collected information regarding a number of elements, including whether the State: (1) establishes procedures for Statewide assessments that meet the participation, alternate assessment, and reporting requirements of Part B, including ensuring the participation of all students, including students with disabilities, and the provision of appropriate accommodations; (2) provides clear guidance and training to public agencies regarding those procedures and requirements; (3) monitors local implementation of those procedures and requirements; and (4) reports on the performance of children with disabilities on those assessments, in a manner consistent with those requirements.

OSEP has determined, through its review of the State’s written procedures for Statewide assessments and the State’s reports to the public and the Secretary on the participation and performance of children with disabilities on such assessments, that those procedures, as written, and those reports are consistent with Part B requirements. OSEP cannot, however, without also collecting data at the local level, determine whether all public agencies in the State implement the State’s procedures in a manner that is consistent with Part B.

Regular Assessments

VDOE informed OSEP that it considers the following three assessments as part of the regular assessment program for accountability purposes: (1) the *Virginia Standards of Learning tests (SOLs)*; (2) the *Virginia Grade Level Alternative (VGLA)*; and (3) the *Virginia Substitute Evaluation Program (VSEP)*.

VDOE informed OSEP that it currently administers the *SOLs* in: (1) English, History and Social Science, Mathematics, and Science for grade 3; (2) English: Reading and Writing, History, Mathematics, and Science for grade 5; (3) English: Reading and Writing, History and Social Science, Mathematics, and Science for grade 8; and (4) in high school. VDOE reported to OSEP that it would eventually administer the *SOLs* in grades 4, 6, and 7 for reading and math as well. VDOE stated that it requires LEAs to include all students with disabilities in the assessment and accountability system, and holds the LEA that places a student in a private setting responsible for ensuring that the student participates in the assessment and accountability system. In order to receive a standard diploma, students (including students with disabilities) must pass two English tests and four additional “approved student-selected tests.” VDOE informed OSEP that LEAs do not currently administer any district-wide assessments.

VDOE informed OSEP that it has recently established the *VGLA* as an alternative way for students with disabilities to demonstrate mastery of the subject matter and standards for the

SOLs in grades 3, 5, and 8, beginning with assessments this school year. VDOE explained that: (1) the VGLA is a way in which a student with a disability can participate in the regular assessment; and (2) VDOE counts a student who uses the VGLA as having participated in the regular assessment when reporting to the Department under Part B and the No Child Left Behind Act (NCLB). A student's IEP team must make the decision whether a student will participate in a regular assessment through the VGLA, and then—consistent with the blueprint for the particular SOL in which the student will be participating—select the work sample to which a local scoring team will apply a standard rubric established by VDOE. VDOE reported that, in order to ensure consistent decision-making in the scoring process, it plans to sample ten percent of the local team scoring decisions at the State level.

In addition to the SOLs, VDOE also administers end-of-course examinations for the following areas: English: Reading and Writing, World History I and II, World Geography, Virginia and United States History, Algebra I and II, Geometry, Earth Science, Biology, and Chemistry. VDOE informed OSEP that it established *VSEP* two years ago as an alternative way for students with disabilities to demonstrate mastery of the subject matter and standards for the relevant courses. The VSEP is intended to provide accommodations for students with very unique needs (e.g., a student who has recently become blind and has not yet sufficiently mastered Braille to read the test and record the answers independently), and only five students have participated in end of course examinations through the VSEP to date. The VSEP may also be used for grade 8 reading and mathematics, for a modified standard diploma. VDOE personnel score student's performance on the VSEP.

Alternate Assessment

As stated in the 2004 *Virginia Alternate Assessment Program (VAAP)* Implementation Manual, Virginia uses the VAAP to evaluate the performance of students who have traditionally been exempted from State assessment programs. The State administers the VAAP to approximately 4,000 children with disabilities Statewide. VDOE explained that it has provided a decision tree for IEP teams to use in determining which students will participate in the VAAP, and that the IEP team must then determine which IEP goals and objectives will be scored by Questar, a private contractor, as part of the VAAP for a particular student. VDOE reported that the participation rate varies from school division to school division, and that VDOE is working with school divisions with higher rates to ensure that they make appropriate decisions about whether a child will participate in the regular assessment or the VAAP.

Monitoring Compliance with Assessment Requirements

VDOE reported to OSEP during the visit and through documentation, that the State monitors for assessment related issues through interviews of local directors and teachers and file reviews. As part of the file reviews the State looks for statements that individualized accommodations or modifications are provided when needed, and explanations of nonparticipation, if appropriate.

In its response to the FFY 2002 APR, OSEP stated, "attachment 3 also indicated that a substantial portion of children with disabilities were exempted entirely from the assessments but did not provide explanations of why, as requested in that form." OSEP requested Virginia to

include information in its FFY 2003 APR on the reasons why children with disabilities are exempted from assessments as requested by the Attachment 3 instructions. During the verification visit, VDOE informed OSEP that exemptions⁴ are not expected to be an issue in future reporting. VDOE expects that there will be about 1,000 exemptions out of 50,000 students for the FFY 2003 APR reporting period.

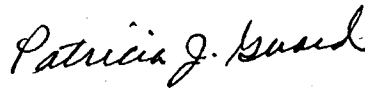
Conclusion

As noted above, the State must ensure correction of the noncompliance related to the requirements of 34 CFR §300.511(a) and (c) regarding timelines for due process hearing decisions, within a reasonable period of time, not to exceed one year from the date of this letter, and provide a report to OSEP with data and analysis demonstrating compliance, as soon as possible, but no later than 30 days following the end of the one-year timeline.

In addition, as noted above, within 60 days from the date of this letter, VDOE must submit a plan to OSEP, for ensuring that youth with disabilities in juvenile detention centers are included in the State's next child count data submission, required under section 618 of IDEA.

We appreciate the cooperation and assistance provided by your staff during our visit, and look forward to our continued collaboration with Virginia to support your work to improve results for children with disabilities and their families.

Sincerely,



Patricia J. Guard
Acting Director
Office of Special Education Programs

cc: Mr. H. Douglas Cox

⁴ Reasons for exemptions include student absence, decision of the IEP team, use of an alternate form, or missing documentation- test not scored.