

Legislative Issue

Currently in Virginia, the Virginia Department of Education has no role in enforcement of Section 504 of the Rehabilitation Act of 1973, the American with Disabilities Act (ADA) of 1990, or No Child Left Behind (NCLB).

Currently there are no administrative remedies available in Virginia for students and parents who believe that the school district Individualized Educational Program (IEP) team has violated Section 504, ADA, or NCLB.

The current office of Dispute Resolution and Administrative Services in the Virginia Department of Education has no compliance procedures available at the state level to address violations of these three federal statues and regulations.

The Constitution delineates the General Assembly's responsibility for Education: "The General Assembly shall provide for a system of free public elementary and secondary schools for all children of school age throughout the Commonwealth..." (Article VII, Section 1). The Code of Virginia delineates the Commonwealth's responsibility for education of children with disabilities.

Currently school district are required to follow all statutes and regulations promulgated by the Board of Education, provisions of the Code of Virginia (COV), the requirements of Section 504 of the Rehabilitation Act of 1973 (as amended), the Americans with Disabilities Act, the Education Department General Administrative Rules (for federal grant requirements), and the Virginias with Disabilities.

However with no one responsible for enforcing these statues and regulations on the state level, students are left at the mercy of the school district to comply with all statues and regulations. There are currently no incentives for the school district IEP team to comply with the Code of Virginia.

Legislative Remedy

Enact legislation to require school district including the IEP teams to comply with the Code of Virginia for students with disabilities no just the Individuals with Disabilities Education Act of (2004). Require the Office of Dispute Resolution and Administrative Services to enforce all statues and regulations applicable to children with disabilities. Develop a Compliance Procedures at the state level to allow students and parents to file a complaint against the school district IEP teams and to be able to initiate an Administrative Due Process Hearing on the provisions of Section 504, ADA – Title II, and NCLB.