

VAISEF Presents

“Protecting Private Special Education Funding Under CSA”

Private Special Education Concerns Related to the Virginia General Assembly Study to Manage the Quality and Costs of Private Day Educational Placements Funded Through the Children’s Services Act



VAISEF Special Education Symposium
September 12, 2017



Today's Presentation:

- History/Background – Private Special Education Funding Issue
- Presentation of VAISEF White Paper
- VAISEF Advocacy and Grassroots Action Plan



History/Background – Private Special Education Funding Issue

- **2014 Legislation:** Attempt by Stafford County to access CSA funds to bring back children from private day placements and serve in public schools; led to COY Study.
- **2014 – 2015 Study:** Commission on Youth Study on Private Educational Placements
- **2016 Budget Language:** CSA / DOE Work Group Study



CSA SEC Workgroup on Private Day Educational Services – 2016

Tasked with reviewing and developing “a robust set of options for increasing the integration of children receiving special education private day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining outcome data to assist in making decisions on the appropriate utilization of these services.”

Options Presented to the Governor and Virginia General Assembly:

- Amend the Children’s Services Act to allow funding for services to Students with Disabilities in the public school setting.
- **Amend the Children’s Services Act to “carve out” and transfer CSA state pool funding for students with disabilities to the VDOE.**
- Request funding for several pilot programs to “implement and test” strategies for increasing the education of students with disabilities in the least restrictive, public school setting.



2017 General Assembly Action

- Governor took no budget action
- Competing budget amendments introduced in House and Senate
 - “Local Demonstration Grants” vs. Funding Shift from CSA to DOE
 - House Appropriations adopts “implementation plan” for shift
 - Senate Finance adopts “implementation workgroup” to study shift
- Final Budget Conference adopts comprehensive workgroup study



Final 2017 Budget Language Adopted by the General Assembly

- Directs staff of House Appropriations and Senate Finance Health and Human Resources Subcommittees and Elementary and Secondary Education Subcommittees to facilitate workgroup to “examine the options and determine the actions necessary to better manage the quality and costs of private day educational programs currently funded through the Children's Services Act.”
- State Agencies cited:
 - Office of Children’s Services
 - Virginia Department of Education
 - Department of Planning and Budget
 - Department of Social Services
 - Department of Juvenile Justice
- Stakeholders to be engaged:
 - Local governments
 - School superintendents or their designees
 - CSA CPMTs and FAPT’s
 - Special education administrators
 - Private providers
 - Parents of special education students



Workgroup Charge:

In examining the options, the workgroup shall consider:

- Amending the CSA to transfer the state pool funding for students with disabilities in private day educational programs to the VDOE
- Identification and collection of data on an array of measures to assess the efficacy of private special education day school placements
- Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment
- Role of Local Education Agencies in determining placements and overseeing the quality, cost and outcome of services for students with disabilities in private day educational programs
- An assessment of the Individualized Education Program (IEP) process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement



Workgroup Charge (continued):

The workgroup shall examine:

- Funding impacts
- Necessary statutory, regulatory or budgetary changes
- Other relevant actions necessary to implement any recommended actions
- A report on any preliminary findings and recommendations shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2017. Committee staffers just now beginning this study process.



VAISEF Response Strategy

- VAISEF Special Education Advisory Group Appointed
- VAISEF Special Education Advisory Group Reviews Data Submitted to 2016 Study Work Group by CSA, DOE
- VAISEF Special Education Work Group Develops White Paper Response to Issue
- VAISEF Advocacy and Grassroots Action Plan



VAISEF White Paper

Work Group Option #1: *Amending the CSA to transfer the state pool funding for students with disabilities in private day educational programs to the VDOE.*

VAISEF Findings:

The General Assembly decision 25 years ago to provide sum-sufficient funding for private day school placements was visionary.

- Virginia was ahead of its time when it decided to look at the “whole child” instead of department by department.
- Any action, such as shifting special education funding from CSA to VDOE, that would result in repealing sum-sufficient funding for private day placements completely guts the intent and purpose of this effective program.
- Special education funding is a significant portion of the overall CSA budget. Carving out and transferring this funding to VDOE for use by public schools could begin the process of dismantling the very structure of CSA.



VAISEF White Paper

Work Group Option #2: *Identification and collection of data on an array of measures to assess the efficacy of private special education day school placements.*

VAISEF Findings:

Much time is spent expressing frustration concerning the costs of special education services, but there is not enough being done to show the positive outcomes resulting from that investment.

- VAISEF enthusiastically endorses the 2016 work group recommendation on gathering outcome measures collaboratively through VDOE, local school divisions and VAISEF.
- In addition, it is recommended that Virginia review studies conducted in other states, such as Arizona, Massachusetts and New Jersey that show the cost effectiveness of providing special education services in the private setting versus the public setting.



VAISEF White Paper

Work Group Option #3: *Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment.*

VAISEF Findings:

Virginia's Regulations Governing Special Education Programs (8VAC20-81) already provide the tools necessary to manage the quality and costs of private day placements.

- There is a misperception that children are being easily placed in private day schools with little consideration or deliberation. If there is any concern about placements, the Virginia Department of Education, pursuant to 8VAC20-81-20(10), has the authority to review local school jurisdictions' justification for its placements and assist those jurisdictions with planning and implementing any necessary corrective actions.



VAISEF White Paper

Work Group Option #3: *Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment.*

VAISEF Findings (continued):

Early intervention programs will result in decreased rates of placements of children with serious disabilities.

- The sooner children with serious disabilities receive services in a private setting after a diagnosis, the greater the likelihood that they will be able to receive FAPE in the public school setting, thereby saving a tremendous amount of spending by the state for special education services for these children. Reducing funding for all special education placements is an ill advised reaction at a time when early intervention services will reduce the number of students, such as those with autism, requiring such placements.



VAISEF White Paper

Work Group Option #3: *Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment.*

VAISEF Findings (continued):

Private special education schools save Virginia money because they are staffed with trained professionals who are able to educate students who might otherwise ultimately be expelled from public school.

- Private day schools provide essential services to localities that cannot provide it themselves. Most, if not all, localities would agree that private day schools are indispensable. For less populated school districts, it is nearly impossible to have a classroom to meet the needs of the populations we serve.
- Our efforts save the state money by allowing these students to remain at home with their parents or guardians during their school age years instead of having to receive residential treatment.



VAISEF White Paper

Work Group Option #3: *Identification of the resources necessary in order to transition students in private day school settings to a less restrictive environment.*

VAISEF Findings (continued):

Private non-profit special education schools offset costs with private philanthropy funding.

- Our non-profit private schools make an additional investment in the services they provide with significant private philanthropy funding, over and above what the CSA pays for these services. Public schools do not have the same access to these types of funds to augment these types of services.
- With their budgets already stretched thin, it is doubtful that public schools could provide a similar level of quality from the amount “saved” by not spending CSA dollars in private day placements.
- It is estimated that on an aggregate basis, many millions of private philanthropy dollars are used to augment the special education services provided by non-profit private schools.



VAISEF White Paper

Work Group Option #4: *Role of Local Education Agencies in determining placements and overseeing the quality, cost and outcome of services for students with disabilities in private day educational programs.*

VAISEF Findings:

Innovative solutions must be encouraged.

- Public/private partnerships between local school jurisdictions allowing private day schools to run classrooms in the public school could help reduce costs.
- Encouraging local school jurisdictions to use private day school staff instead of having to hire their own for services such as speech and language could also reduce costs.
- VAISEF strongly supports collecting data on measures to assess the efficacy of private special education day school placements and give greater confidence to those who must make these placement decisions in the best interests of the child, while at the same time being cognizant of the public funds being utilized.



VAISEF White Paper

Work Group Option #5: *An assessment of the IEP process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement.*

VAISEF Findings:

Virginia's current funding structure for providing an appropriate education to children with disabilities is a model that will be followed by other states as a result of the United States Supreme Court's decision in *Endrew F. v. Douglas County*.

- Funding appropriate education is a legal issue that requires an understanding of federal law and Virginia special education regulations. The Individuals with Disabilities Education Act ("IDEA") mandates that children with disabilities are provided a Free and Appropriate Public Education ("FAPE").
- As a result of *Endrew*, public schools around the country that relied upon a lower standard will now be in a position of having to truly educate their students with disabilities or find a private day school that is capable of doing so.



VAISEF White Paper

Work Group Option #5: *An assessment of the IEP process as compared to federal requirements, including how that process relates to the role of CSA Family Assessment and Planning Team (FAPT) in determining services for students with disabilities whose IEP requires private day educational placement.*

VAISEF Findings (continued):

Decreasing funding for private educational placements will result in increased litigation.

- If funding from state is significantly reduced because sum sufficiency is lost, majority of jurisdictions will not have resources necessary to adhere to federal law and place a student in a private day school to receive FAPE. More parents will pursue right to seek decision on placement in the federal or state courts if the administrative due process hearing does not rule in their favor.
- Anything that disincentivizes placements in private day school settings increases the likelihood of parents making unilateral placements without the input and benefit of CSA process and pursuing litigation against local school jurisdictions for retroactive payment of those services.
- Failure of jurisdictions to appropriately place a student with special needs risks a Department of Justice comprehensive investigation of special education services and failure to provide FAPE to its students.



VAISEF White Paper

Other VAISEF Findings and Recommendations:

- **More study and analysis must be given to understanding what is driving costs and placements in private special education day schools.**
- **Efforts to bring cost and decision-making into “alignment” at the local level must be considered carefully to avoid decisions being made solely for financial reasons.**
- **More thorough understanding must be gained by decision-makers on the true nature and scope of private special education services.**
- **The future of the CSA should be determined through a comprehensive study conducted by JLARC.**



VAISEF White Paper

Conclusion:

As we wrestle with cost and placement issues, we must never lose sight of the mission of the CSA:

“...to create a collaborative system of services and funding that is child-centered, family-focused and community-based when addressing the strengths and needs of troubled and at-risk youth and their families in the Commonwealth.”



VAISEF Advocacy and Grassroots Action Plan

- Proactive and Pre-emptive Response to Legislative Workgroup
 - VAISEF Membership (CEO's and staff, Board members, Parents)
 - Affiliated Groups (VCOPPA, etc.)
 - Local Government (VACo, VML, VSBA, VASS, etc.)
- Engagement of Other Stakeholders
 - Private Provider Community
 - Local Government
 - Family Advocacy Groups (Voices, NAMI, Autism groups)
- Approaching Key Decision Makers
 - Reply to Appropriations and Finance Staff, Joint Oversight Subcommittee
 - Secretary Hazel / Secretary Trent / Governor's Office
 - Legislators / Legislative Staff Members



VAISEF Advocacy and Grassroots Action Plan

Joint Subcommittee for Health and Human Resources Oversight

- The joint subcommittee shall examine progress made in implementing changes to:
 - (i) Medicaid managed care programs, including managed long-term supports and services (the Commonwealth Coordinated Care Plus program) and changes to the Medallion program;
 - (ii) Medicaid waiver programs including the Medicaid waivers serving individuals with developmental disabilities;
 - (iii) the Medicaid Enterprise System;
 - (iv) improve eligibility, enrollment and renewal processes in the Medicaid and CHIP programs;
 - (v) the organizational structure and realignment of staff and resources of the Department of Medical Assistance Services resulting from the change from a fee-for-service to a managed care delivery system;
 - **(vi) improve the cost effective delivery of services through the Comprehensive Services Act;**
 - (vii) initiatives and programmatic changes across the Health and Human Resources agencies to ensure efficient and effective use of resources across the Secretariat.



VAISEF Advocacy and Grassroots Action Plan

Joint Subcommittee for Health and Human Resources Oversight

- **Senate Members:**
 - Senator Emmett Hanger (R-Augusta)
 - Senator Janet Howell (D-Fairfax)
 - Senator George Barker (D-Fairfax)
 - Senator Siobhan Dunnivant (R-Henrico)
- **House Members:**
 - Delegate Chris Jones (R-Suffolk)
 - Delegate Steve Landes (R-Augusta)
 - Delegate John O'Bannon (R-Henrico)
 - Delegate Matthew James (D-Portsmouth)



VAISEF Advocacy and Grassroots Action Plan

Senate Finance Committee

- **Health and Human Resources Subcommittee:**

- Senator Emmett Hanger (R-Augusta)
- Senator Janet Howell (D-Fairfax)
- Senator Steve Newman (R-Lynchburg)
- Senator George Barker (D-Fairfax)
- Senator Siobhan Dunnivant (R-Henrico)
- Senator Rosalyn Dance (D-Petersburg)

- **Education Subcommittee:**

- Senator Tommy Norment (R-James City)
- Senator Steve Newman (R-Lynchburg)
- Senator Janet D. Howell (D-Fairfax)
- Senator Dick Saslaw (D-Fairfax)
- Senator Emmett Hanger (R-Augusta)
- Senator Frank Ruff (R-Mecklenburg)
- Senator Siobhan Dunnivant (R-Henrico)



VAISEF Advocacy and Grassroots Action Plan

House Appropriations Committee

- **Health and Human Resources Subcommittee:**
 - Delegate Riley Ingram (R-Hopewell)
 - Delegate Steve Landes (R-Augusta)
 - Delegate John O'Bannon (R-Henrico)
 - Delegate Chris Peace (R-Hanover)
 - Delegate Scott Garrett (R-Lynchburg)
 - Delegate Chris Stolle (R-Virginia Beach)
 - Delegate Daun Hester (D-Norfolk)
 - Delegate Mark Sickles (D-Fairfax)
- **Elementary and Secondary Education Subcommittee:**
 - Delegate Jimmie Massie (R-Henrico)
 - Delegate Kirk Cox (R-Colonial Heights)
 - Delegate Steve Landes (R-Augusta)
 - Delegate Tag Greason (R-Fairfax)
 - Delegate Barry Knight (R-Virginia Beach)
 - Delegate Delores McQuinn (D-Richmond)
 - Delegate Lashrecse Aird (D-Petersburg)



VAISEF Advocacy and Grassroots Action Plan

Key Dates

- **September 12th – VAISEF Special Education Symposium / White Paper Presentation**
- **September 26th – Legislative Staff Visit to St. Joseph's Villa and Meeting with VAISEF Special Education Advisory Group**
- **November 1st – Legislative Work Group Report Due to Chairmen of House Appropriations and Senate Finance Committees**
- **November 8-9th – VCOPPA Critical Issues Symposium**
- **December TBD – Staff Presentation to Joint Oversight Subcommittee**
- **December 18th – Governor's Budget Presentation**
- **January 10th – 2018 Session of the General Assembly Convenes**