



COMMONWEALTH OF VIRGINIA

Commission on Youth

Study of School Enrollment Practices for Virginia's Kinship Caregivers

December 19, 2011

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Study Mandate



- In 2010, the Commission on Youth conducted a study on the *Barriers to Kinship Care in Virginia*.
- One issue identified was the challenges an informal kinship caregiver faces when enrolling the child placed in their care into school in the school division where they reside.
- At its April 5, 2011 meeting, the Commission adopted a study plan providing for an advisory group of representatives from education impacted organizations to study ways to clarify the school enrollment process for informal kinship caregivers.



Advisory Group Membership

- Albemarle County Public Schools
- Catholic Charities of Hampton Roads
- Commission on Youth Members
- FACES of Virginia Families
- Hanover County Public Schools
- JustChildren
- Local Departments of Social Services
- Norfolk Department of Human Services
- Project HOPE
- Special Advisor to the Governor
- Supreme Court of Virginia
- United Methodist Family Services
- Virginia Association of Secondary School Principals
- Virginia Department of Aging
- Virginia Department of Education
- Virginia Department of Social Services
- Virginia Poverty Law Center
- Virginia School Board Association
- Voices for Virginia's Children



Advisory Group Meeting Dates

June 7, 2011

August 30, 2011 (Drafting Group)

September 7, 2011

October 18, 2011

December 6, 2011 (Work Group)



School Enrollment Practices

- Informal kinship caregivers face challenges when they attempt to enroll the child placed in their care in school.
- In some Virginia school divisions, relative caregivers must prove that they have legal custody of the child in order to enroll him/her in school, a rule intended to prevent parents from “shopping” for schools by using a relative’s address.
- Section 22.1-3. of the *Code of Virginia* states that public schools in each school division shall be free to each person of school age who resides within the school division and further outlines various categories which create “presumptions of residency” for purposes of receiving a free public education.

Identified Issues



School Enrollment Practices

- The issue of school enrollment by informal kinship caregivers was addressed in two separate Attorney General's Opinions dated December 1, 1987 and June 14, 2007.
- These Opinions state that residence solely for school attendance purposes is not considered *bona fide* pursuant to the § 22.1-3 of the *Code of Virginia*. However, situations in addition to those listed in the *Code* may entitle persons to free admission to public schools in the locality.
- School divisions must provide the opportunity to demonstrate a *bona fide* residence and make a determination based on all pertinent facts. School divisions may not refuse to provide free education to a *bona fide* resident of the school division based solely on the categories set forth in the *Code*.

Identified Issues



Concerns noted by the Advisory Group and stakeholders

- Clarifying the definition of kinship care
- Accessing information under the *Family Educational Rights and Privacy Act* (FERPA) & the *Individuals with Disabilities Education Act* (IDEA)
- Penalty for falsifying information
- Lack of uniformity and a process
- Utilization of the court system
- “School shopping” and eligibility for high school sports

Recommendation – Option 1



Amend § 22.1-3 of the *Code of Virginia*, which addresses persons to whom public school shall be free, to include a close relative meaning the person's grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt providing kinship care as that term is defined in § 63.2-100. A local school division may require one legal parent and the close relative providing kinship care to provide: (i) a signed affidavit developed by the Board of Education detailing the reason for the kinship care arrangement; (ii) a signed power of attorney that specifies the powers that the parent grants to the close relative providing the kinship care; and (iii) evidence of the close relative relationship. The Board of Education will develop the affidavit to be used by school divisions for this purpose.

Recommendation – Option 2



Amend § 22.1-3 of the *Code of Virginia*, which addresses persons to whom public school shall be free, to include a close relative meaning the person's grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt providing kinship care as that term is defined in § 63.2-100. A local school division may require one legal parent and the close relative providing kinship care to provide: (i) a signed affidavit developed by the local school division detailing the reason for the kinship care arrangement; (ii) a signed power of attorney that specifies the powers that the legal parent grants to the close relative providing the kinship care; and (iii) evidence of the close relative relationship.

Recommendation – Option 3



Request the State Executive Council to review the work of the Commission on Youth and develop a plan to ensure school stability for children in out-of-home care, including children in kinship care arrangements, both formal and informal.