



Virginia Commission on Youth 2007 Legislative Studies and Initiatives

STUDY OF ALTERNATIVE EDUCATION OPTIONS Year 2

Findings/Conclusions	Recommendations	Comments
<p><u>Lack of Information on Locally Administered Alternative Education Programs</u> <i>There is a lack of information regarding local programs/schools providing educational services to suspended and expelled students. While there is an annual report on Regional Alternative Education Programs pursuant to §22.1-209.1:2 of the Code of Virginia, there is no central inventory of locally created and administered alternative education schools/programs. Such a guide would be helpful to provide educators, health and human service workers, juvenile justice officials, caregivers and others with information on all available alternatives to students who have been suspended or expelled and would be a resource to local school divisions which may be unaware of programs that exist in the Commonwealth. Such information could also guide local school divisions in building programs to address unmet service needs of at-risk and disciplined students. Moreover, such a guide could provide a more complete picture of existing programs and promising practices throughout the Commonwealth.</i></p>	<p><u>Recommendation 1</u> Option 1: The Virginia Commission on Youth shall finalize its report on <i>Local Alternative Education Options for Suspended and Expelled Youth</i> and request the Virginia Association of School Superintendents to assist in disseminating it to all interested organizations via the Internet or any other cost-effective dissemination method they choose. Option 2: The Virginia Commission on Youth shall contact all child-serving agencies and inform them of the availability of the report on <i>Local Alternative Education Options for Suspended and Expelled Youth</i>. The Commission will also request the Secretariats of Health and Human Resources, Public Safety, and Education, as well as all affected agencies delivering services to children, to link this report on their websites. Option 3: The Virginia Department of Education, in cooperation with the Virginia Alternative Education Association and the Virginia Association of Independent Education Specialized Education Facilities, will continue to collect data on locally administered alternative education programs. Data collected will include the number of students served, service needs, funding, components of the programs, and any other information that evaluates both the performance of the programs and the students served by the program. This information will be submitted biennially to the General Assembly.</p>	<p>The Advisory Group supports these recommendations.</p> <p>The Advisory Group requested that the Virginia Commission on Youth include all alternative education programs, including a listing of all regional and privately created programs.</p> <p>The Virginia Department of Education indicated that the Department could fulfill Option 3 utilizing existing resources so long as the report is biennial.</p>

Findings/Conclusions	Recommendations	Comments
<p><u>Students not Offered Educational Services When Suspended or Expelled</u></p> <p><i>Unless the student qualifies for special education or is in the custody of the Department of Juvenile Justice, the student forfeits their right to an education when expelled. In Virginia, expelled students are still subject to the requirement for compulsory attendance. Parents must assure attendance unless they have access to a regional or local alternative education school or program.</i></p> <p><i>According to a survey conducted by the Virginia Commission on Youth for the 2005-2006 school year, 57 of responding school divisions reported occurrences where suspended/expelled students were not offered educational services. The total number of students not offered services was 6,268.¹ The average number of students not offered any form of educational service was 68 per division. In addition, regional and local programs have waiting lists for students who need alternative education placements.²</i></p> <p><i>Most alternative education programs, both regional and local, are not designed to handle significant numbers of students. Moreover, these programs cannot adequately serve the large number of students at risk for school failure who may benefit from these educational services. Suspended or expelled students who do not receive educational services fall behind and become disengaged from school. This puts them at risk for dropping out.</i></p> <p><i>There are gaps in alternative education services in Virginia, such as lack of placements for middle school-aged students. Moreover, students with discipline issues who are not successful in a traditional school setting, who have dropped out, or who are at-risk of dropping out could benefit from placement in a private, local, or regional alternative setting. (continued)</i></p>	<p><u>Recommendation 2</u></p> <p>Option 1: Introduce legislation to allow students who have not been attending school for a designated period of time and/or who are not succeeding in the public school setting to be authorized to receive instruction in a private alternative education program that assists students in achieving established academic standards. To be eligible for payments of state school funds, the educational program must assist the students in achieving defined local and state academic standards.</p> <p>Option 2: Introduce a budget amendment to provide funding for a second tier of regional alternative education programs. The proposal for a second tier of funding shall not dilute the funding already distributed to existing regional programs and will allow additional school divisions to create and tailor programs for students who are at-risk of school failure or not otherwise successful in a traditional school setting.</p> <p>Option 3: Introduce legislation and a budget amendment to provide for additional slots specifically for students who have not been attending school for a designated period and/or who are not succeeding in the public school setting to be eligible to receive instruction in a regional alternative education program.</p> <p>Option 4: Investigate methods for the Virginia Department of Education to authorize school divisions to utilize dual-enrollment as an option for providing transitional or educational services to students who are at-risk for school failure or who are currently not attending school.</p>	<p>Advisory Group members have indicated that it may not be appropriate to have the Department of Education insure that all students who were suspended and expelled receive educational services. There might be compelling circumstances for not offering services, such as some students might be repeat offenders who were offered services previously.</p> <p>The connection between disciplinary referrals and dropouts was noted in comments from Just Children and the Virginia Alternative Education Association about the significant number of students who are ineligible to receive educational services and who are neither special education students nor in the custody of the Department of Education.</p> <p>Comments offered by a Henrico County Probation Officer suggest that schools are not providing juveniles with their IEPs homebound instruction in a timely fashion. The homebound instructors were not coming into the home until several weeks to three months after the juvenile has been removed from the school setting. In addition, the homebound educational instruction offered is usually only two to five hours per week. Often, when</p>

¹ Virginia Commission on Youth Survey of Alternative Education Programs, 2007. This may include those suspended for 10 days or less.

² Ibid.

Recommendation 2 *(continued)*

Findings/Conclusions	Recommendations	Comments
<p><i>The Board of Education recognized the connection between students' connectedness to school and school safety in its Comprehensive Plan. As a strategy to make schools safer and more secure, the Board is encouraging school divisions to "find innovative ways to keep students with behavioral challenges in school."³</i></p> <p><i>School divisions struggle with the challenges of keeping disengaged students on their rolls in order to provide them with instruction so they may receive diplomas. Unfortunately, these students may not ever return to the traditional school setting. These students may be "recovered" and opt to receive their GEDs in lieu of returning to school. However, these students cannot receive their GEDs unless they are eligible.</i></p> <p><i>Option 5 is offered after discussion with representatives from Project Recovery in Roanoke. Option 5 allows students not attending school and who are at a high risk of dropping out to obtain their GEDs without having to wait until age 18. This would waive the compulsory attendance requirement. Option 6 requests the Department of Education to offer guidelines to school divisions for releasing students who are not attending school and desire to pursue GEDs from compulsory attendance requirements.</i></p>	<p>Option 5: Introduce legislation requiring the Department of Education to release from compulsory education requirements students who have fulfilled the pre-GED requirements but are not otherwise eligible to test for the GED.</p> <p>Option 6: Request the Board of Education develop guidelines for school divisions regarding compulsory attendance requirements to allow students who are consistently not attending school and are not succeeding to request to be withdrawn from the roll for purposes of obtaining a GED.</p>	<p>juveniles are not receiving special education services, schools are informing parents that the educational piece is up to them. Many parents are being told they have to pay for educational services pending re-admittance into the public school system. For many probation officers, this is very frustrating because these students are entitled to an education, regardless of their criminal offenses. Even if the juvenile is found not guilty by the court or the charge is dismissed, the school is still expelling or suspending the student.</p> <p>The Virginia Association of Secondary School Principals supports further study of Option 4.</p> <p>A private child advocate commenting on Option 4 asks that dual enrollment be explored as an option for those at risk or in danger of failing to graduate in order to address the populations in need of alternative education. Unless the option is available to <u>all</u> students, paying for/providing it with state or other funding for students who are at risk or in danger of failing to graduate could create a situation in which other students mirror negative behaviors and outcomes in order to receive such services. It could unintentionally reward negative effort or behavior.</p> <p>The Department of Education voiced concerns with Option 5. Local school boards</p> <p style="text-align: right;"><i>(continued)</i></p>

³ Board of Education, *Comprehensive Plan: 2007-2012*, Adopted September 26, 2007, Objective 8, Strategy 3.

Recommendation 2 *(continued)*

Findings/Conclusions	Recommendations	Comments
		<p>have the authority to release children from compulsory attendance, not the Department or Board of Education. This option could result in an unintended consequence, which could be that students who have fulfilled pre-GED requirements may drop out of school. The Individual Student Alternative Education Plan (ISAEP) provides an available alternative for students who are having difficulty finding success in a regular classroom environment.</p> <p>In commenting on Option 6, the Department of Education comments that the Code of Virginia (in 22.1-254) already contains numerous conditions under which a child may be excused from compulsory attendance.</p>
<p><u>Shortage of School-based Prevention Programs</u> <i>There is a shortage of school-based prevention programs that address issues such as violence prevention, anger management, conflict resolution, and other behavioral health needs. These programs reduce suspensions and expulsions by offering valuable prevention services for youth who may be considered "at-risk." These programs have been negatively impacted by the reductions to the federal Safe and Drug-Free School grants. In 2006, the level of funding decreased 21% and there was an additional 11% reduction in 2007. Moreover, there is no designated state funding for school-based prevention programs.</i></p> <p><i>Virginia has an infrastructure in place to meet the programming needs of local school divisions. Student Assistance Programs (SAPs) utilize a comprehensive systems approach of evidence-based curricula, practices, principles, and strategies to respond to K-12 student challenges. They are designed to reduce risk factors, promote protective factors, increase asset development and foster resilience.</i> (continued)</p>	<p><u>Recommendation 3</u> Option 1: Request the Virginia Department of Education to establish guidelines for statewide implementation of Student Assistance Programs (SAPs). The guidelines for SAPs will be shared with school divisions to ensure consistent and uniform application and implementation of SAP, based on best practices.</p> <p>Option 2: Request a budget amendment for the Virginia Department of Education to construct a database to capture data on utilization of Student Assistance Programs (SAPs) in Virginia. Such a database will allow for ongoing assessment of the efficacy of SAP and for the development of a framework to guide future evaluations.</p>	<p>The Advisory Group supports these recommendations.</p> <p>A budget amendment for \$150,000 and one FTE would be necessary to fulfill Option 2. This would fund one full time equivalent (FTE) and modifications needed to create a database.</p>

Recommendation 3 *(continued)*

Findings/Conclusions	Recommendations	Comments
<p><i>SAPs create a flexible process intervention plan that is consistently monitored. In Virginia, 36 school divisions reported having SAPs. In 2006, 297,700 students (20% of the total student population) were served by SAPs.</i></p> <p><i>The basic goals of SAPs are to:</i></p> <ul style="list-style-type: none"> <i>• provide collaboration between in-school and community resources;</i> <i>• encourage parent involvement;</i> <i>• increase the opportunity to help students participate in positive activities;</i> <i>• promote a safer school environment;</i> <i>• seek to improve grades, attendance and social challenges;</i> <i>• examine the best method for transitioning students back into a traditional school setting following alternative education; and</i> <i>• surround students with support services.</i> <p><i>Outcomes from a study conducted of Pennsylvania's SAPs reveal improved school outcomes, improved attendance, decreased discipline problems, increases in grade promotion, and increases in graduation rates. One-third of the students who were served had improved attendance, while two-thirds of students were not suspended after an SAP referral and were either promoted or graduated from school.⁴ While Virginia's SAPs have consistently high satisfaction ratings, there is an inability to measure the effectiveness of existing SAP services. The Board of Education, in its Comprehensive Plan for 2007-2012, is promoting the establishment of student assistance programming (Objective 8, Strategy 8).</i></p> <p><i>Although most school divisions with SAPs have written policies and standard procedures to guide SAP services, there are some administrative gaps. Only half of the school divisions with SAP have policies describing the purpose of their SAP, how to refer students, and the limits of student confidentiality. About two-thirds of school divisions have systematic methods of informing school personnel, students, and parents about SAP services. Nearly two-thirds of the school divisions maintain records of SAP services, but fewer than half document student outcomes from SAP services.⁵</i></p>		

⁴ Retrospective Analysis of the Pennsylvania Student Assistance Program Outcome Data, 2003.

⁵ Student Assistance Programs in Virginia: 2006 Status Report.

Findings/Conclusions	Recommendations	Comments
<p><u>Effective Schoolwide Discipline Programs & Reductions in Disciplinary Referrals</u></p> <p><i>Research indicates that exclusionary discipline approaches potentially increase poor outcomes in students. Training school staff and educators in effective classroom management may increase the consistency of discipline, which can potentially reduce suspensions and expulsions.</i></p> <p><i>A schoolwide system of effective discipline consists of proactive strategies that focus on teaching and rewarding student behavior, which in turn contributes to improved academic performance and social behavior. Results of implementing effective schoolwide discipline programs in Virginia are:</i></p> <ul style="list-style-type: none"> • <i>one middle/high school reduced the number of discipline referrals by two-thirds;</i> • <i>administrators with another middle school found that they saved the equivalent of 20 eight-hour days;</i> • <i>teachers found they gained 430 more hours of instruction time;</i> • <i>statewide achievement scores increased dramatically over a four-year period; and</i> • <i>the number of elementary school students who met state achievement standards in reading increased from 20 percent to 79 percent over a four-year period.⁶</i> <p><i>National data show a gain of 10,620 instructional minutes over a two-year period. Time gained due to reduced behavioral interruptions was over 27 days in year one and 31 days in year two.⁷ Moreover, the Virginia Department of Education, in its Comprehensive State Plan, has offered a strategy to encourage school divisions to utilize innovative ways to keep students with behavioral challenges in school.</i></p>	<p><u>Recommendation 4</u></p> <p><i>Option 1:</i> Request the Virginia Department of Education and the Virginia Department of Education's Training and Technical Assistance Center to continue to include information on effective schoolwide discipline programs to all school divisions. Information will be offered to school divisions to educate them on the effectiveness of this program model.</p> <p><i>Option 2:</i> Request the Virginia Department of Education and the Virginia Department of Education's Training and Technical Assistance Center to continue to provide information on all evidence-based school-based programs to all school divisions.</p>	<p>The Advisory Group and Department of Education support both options so long as they are not mandates.</p> <p>The Restorative Community Foundation asks that all evidence-based behavior modification programs be included in this recommendation so that school divisions could choose the programs that best fit their needs. The Advisory Group concurred.</p> <p>Just Children suggests that, based on the effectiveness of this program, a budget amendment be introduced for the statewide implementation of effective school-wide discipline programs including training, technical support, and staffing needs.</p> <p>Just Children also suggests that the Virginia Commission on Youth continue its Advisory Group on Alternative Education Options to investigate costs and procedures required to implement effective school-wide discipline programs statewide, including training, technical support, and staffing needs.</p>

⁶ Virginia Department of Education, *An Introduction of Effective Schoolwide Discipline in Virginia*.

⁷ Scott, T., & Barrett, S. (2004). *Journal of Positive Behavior Interventions*.

Findings/Conclusions	Recommendations	Comments
<p><u>Lack of Definition for Alternative Education for Disciplined Youth</u> <i>There is no consistent and established definition of what an alternative program/school is and what components must be present. Currently, there is great diversity among the local alternative education programs regarding program components, such as program hours and the ability to earn verified credits. The term "alternative education" covers all educational activities that fall outside the traditional K-12 school system, including vocational programs, special programs for gifted children, and charter schools.⁸</i></p> <p><i>A broad definition of alternative education programs that describes the full array of alternatives may be an important element in encouraging the development of the most effective programs. A unified definition of alternative education could also be helpful for both funding opportunities and evaluation purposes.</i></p>	<p><u>Recommendation 5</u> Request the Virginia Alternative Education Association to research alternative education definitions established by the National Education Association. Request the Virginia Alternative Education Association to report its progress and any suggested language to the Virginia Department of Education and the Virginia Commission on Youth prior to the 2009 Session of the General Assembly.</p>	<p>The Advisory Group and the Virginia Alternative Education Association concur with this recommendation. The Association, however, notes its concern about delineating specific kinds of programs. Standards for alternative education would be helpful so long as they do not standardize alternative education in Virginia; the full array need not be addressed in the definition.</p> <p>The Virginia Alternative Education Association suggests that an office or individual be established within the Department of Education to be responsible for the oversight and advocacy of alternative education in Virginia.</p>
<p><u>Continue the Alternative Education Advisory Group</u> <i>In 2006-2007, the Virginia Commission on Youth convened the Alternative Education Advisory Group to examine barriers in providing alternative education options to suspended and expelled youth. Affected agencies participated in this effort. During the course of the study, it was noted that these youth were also being served by other health and human service agencies, child welfare agencies, as well by the juvenile justice system. The Advisory Group formulated initial recommendations to assist in strengthening service provision to students who have been suspended, expelled, or at risk for disciplinary referral. Gaps in service, along with best practices, were identified; however, more evaluation needs to be conducted to determine whether these approaches can be applied effectively across the Commonwealth. Adding representatives from all child-serving agencies to the Advisory Group would strengthen the study findings.</i></p>	<p><u>Recommendation 6</u> Request the Virginia Commission on Youth to continue its Advisory Group on Alternative Education Options and to invite representatives from all child-serving agencies. The Advisory Group will work to evaluate gaps in service in alternative education placements, as well as the reasons that students are not offered educational services. A report on the findings from the Advisory Group will be made to the Virginia Commission on Youth prior to the 2009 General Assembly Session.</p>	<p>The Advisory Group, in offering this recommendation, suggests that further study would be beneficial to meeting the educational needs of these youth.</p> <p>The Virginia Alternative Education Association expresses the need for additional study which addresses the myriad of reasons students come to alternative programs, specifically that behavioral issues may be only one factor.</p> <p>Just Children suggests the Advisory Group investigate dual-enrollment as an option for providing transitional or educational services to students who are at-risk for school failure or currently not attending school.</p>

⁸ 8VAC20-330-10

STUDY OF THE ESTABLISHMENT OF AN OFFICE OF CHILDREN'S OMBUDSMAN Year 2

Findings/Conclusions	Recommendations	Comments
<p><i>Many different state agencies provide services to children in Virginia, either directly, through local offices or through contacts with private providers. These agencies include: the Departments of Education, Social Services, Juvenile Justice, Health, Correctional Education, and Mental Health, Mental Retardation and Substance Abuse Services and the Office of Comprehensive Services for At Risk Youth and Families. Virginia does not have a central point of contact for children's services wherein complaints can be filed and investigations can be conducted to ensure the health, safety and welfare of children. For most children's services, there is not an independent review process for complaints.</i></p> <p><i>There is a need to:</i></p> <ul style="list-style-type: none"> ▪ <i>provide a mechanism for filing complaints external to the child welfare system and child-serving agencies;</i> ▪ <i>provide a system accountability mechanism to protect the interests of children and families in the child welfare system;</i> ▪ <i>investigate the acts of state and local administrative agencies adversely affecting children;</i> ▪ <i>protect children and parents from harmful agency action or inaction;</i> ▪ <i>recommend appropriate changes to safeguard the rights of children and parents; and</i> ▪ <i>promote higher standards of competency, efficiency and justice in the administration of child protection and child welfare laws, juvenile justice services, and education.</i> 	<p><u>Recommendation 1</u></p> <p>Option 1: Introduce legislation during the 2008 General Assembly Session to create an Office of the Children's Ombudsman (Office) as a separate and independent state agency.</p> <p>Option 2: Introduce legislation during the 2008 General Assembly Session to create an Office of the Children's Ombudsman (Office) within the Virginia Office of Protection and Advocacy as a separate and independent state agency.</p> <p>Option 3: Introduce legislation during the 2008 General Assembly Session to create an Office of the Children's Ombudsman (Office) within the Office of the Secretary of Administration as a separate and independent state agency.</p> <p>Option 4: Introduce legislation during the 2008 General Assembly Session to create an Office of the Children's Ombudsman (Office) within the Secretary of Health and Human Resources as a separate and independent state agency.</p> <p>Option 5: Introduce legislation during the 2008 General Assembly Session to create an Office of the Children's Ombudsman (Office) within the Office of the Inspector General for Mental Health, Mental Retardation and Substance Abuse Services as a separate and independent state agency.</p>	<p>The underlying rationale is that an autonomous Office of the Children's Ombudsman hearing the public's complaints is better able to remedy individual complaints and identify problems with government systems.</p> <p>Comment received from a private child advocate favors all options that give the position as much strength and autonomy as can be held. She supports an independent agency, but appreciates the protective language that has been included should it have to be housed inside a specific agency. The Children's Ombudsman must be easily accessible to all within the state, and the office should be able to move freely throughout the state as is required by the outlined duties.</p>

Recommendation 2 is relevant only if Recommendation 1, Option 1 is approved.

Findings/Conclusions	Recommendations	Comments
<p><i>Ombudsman programs tend to vary, especially in the functions, authorities and jurisdictions of the programs. Unfortunately, there is no one ombudsman program that is the standard for all ombudsman programs. Nevertheless, there are four basic principles and several characteristics that are typical for all ombudsman programs:</i></p> <ul style="list-style-type: none"> ▪ <i>Independence;</i> ▪ <i>Impartiality;</i> ▪ <i>Confidentiality; and</i> ▪ <i>Credible Review Process.</i> <p><i>With consideration given to the four basic principles, it is also important to ensure that the Office of the Children's Ombudsman is not a duplication of services and that the Ombudsman not interfere with the current internal processes. During the first year of the study, Commission staff conducted an extensive review and analysis of existing statutory requirements, regulations, programs and complaint processes within the current children's services structure in Virginia. While, many internal reviews and systems exist within Virginia child-serving structure, there is no mechanism in place for filing complaints external to the child welfare system and child-serving agencies.</i></p> <p><i>In addition, there may be current governmental structures in place that would have the ability and resources to assist with the technical needs to establish a Children's Ombudsman Office.</i></p>	<p><u>Recommendation 2</u></p> <p>Introduce an enactment clause of the legislation creating the Office of the Children's Ombudsman to:</p> <p>Option 1: Direct the Virginia Office of Protection and Advocacy (VOPA) to work with the Office of the Children's Ombudsman to provide for the Ombudsman's office space needs. Additional costs for the Ombudsman's office space shall be paid for out of the Office of the Children's Ombudsman's budget. However, the Children's Ombudsman Office may share resources, such as common office areas, relevant training opportunities provided by VOPA.</p> <p>Option 2: Direct the Office of the Governor to work with General Services to provide for the Ombudsman's office space needs.</p> <p>Option 3: Direct the Office of the Secretary of Administration to work with General Services to provide for the Ombudsman's office space needs.</p> <p>Option 4: Direct the Office of the Secretary of Health and Human Resources to work with General Services to provide for the Ombudsman's office space needs.</p> <p>Option 5: Include a delayed enactment clause allowing time for the administrative and technical set-up of the Office.</p> <p>Option 6: Clarify that the Office of the Children's Ombudsman is an independent agency and technical support of the establishment of the Office shall not give such an entity any authority over the operation or function of the Office of the Children's Ombudsman.</p>	<p>The purpose of the enactment clause is to assist in the technical set-up of the Office of the Children's Ombudsman. The assisting entity will not control any aspect of the Office's program operation. The Office would remain independent but rely on the designated entity for support.</p> <p>On November 13, 2007, the Governor appointed a Special Advisor on Children's Services Reform to Health and Human Resources. In this new role, the Special Advisor will lead the Commonwealth's comprehensive children's services reform effort, including the "For Keeps" initiative launched earlier this year by First Lady Anne Holton. The children's services reform effort seeks to build on the recommendations of JLARC's recent study of the Comprehensive Services Act and the Hanger Commission, as well as other ongoing efforts to improve services for Virginia's at-risk children and families.</p>

Findings/Conclusions	Recommendations	Comments
<p><i>During the first year of the study, Commission staff researched the structure of Virginia's child-serving agencies. While some of the agencies have either internal ombudsman's services available or appeals processes in place, there is not an independent, external ombudsman which provides an unbiased and impartial voice to help children and families when conflicts occur within the child-services structure.</i></p> <p><i>In addition, children with whom the state has legal responsibility receive a substantial amount of services through placements or treatments by private agencies in which the state partially or fully funds.</i></p>	<p><u>Recommendation 3</u> The Office of the Children's Ombudsman should provide ombudsman services for children served by the following departments:</p> <p><i>Option 1:</i> All departments that provide services to children: Departments of Social Services, Juvenile Justice, Health, Mental Health, Mental Retardation and Substance Abuse Services, Education, Office of Comprehensive Services for At Risk Youth and Families, and Correctional Education, as well as any entities, program or services that the departments may license, fund or operate.</p> <p><i>Option 2:</i> Certain departments that provide services to children: Departments of Social Services, Juvenile Justice, Mental Health, Mental Retardation and Substance Abuse Services, Education, and Correctional Education.</p> <p><i>Option 3:</i> Departments that have custodial authority of children: Departments of Social Services and Juvenile Justice.</p>	<p>A private child advocate voices support for Option 1. In addition, she feels it is important to include "agencies having custodial authority over children" in all options. If there are agencies with that authority other than those listed, that clause would include them. Children are not property. We must remember their importance and honor it.</p>
<p><i>Investigation of complaints is a key component of a Children's Ombudsman Office, giving the Office the tools needed to resolve and mediate complaints from children, parents and citizens concerning harmful actions or inactions of child-serving agencies.</i></p> <p><i>Each child-serving agency in Virginia has some type of internal dispute resolution, grievance mechanism and/or investigatory authority. However, child-serving agencies that use internal staff for such complaint handling and investigations may find that such staff are not adequately insulated from agency pressures such that they can give an unbiased evaluation of the complaint.</i></p>	<p><u>Recommendation 4</u> <i>Mission of Office - Investigation</i> The Office of the Children's Ombudsman shall be authorized to investigate the acts of child-serving agencies. The Office of the Children's Ombudsman shall conduct investigations for the purposes of resolving and mediating complaints from children, parents, and citizens concerning harmful actions or inactions of any child-serving agency. After initial investigation, the Ombudsman may decline to accept any complaint it determines is frivolous or not made in good faith. The Office of the Children's Ombudsman shall attempt to resolve the complaint at the lowest appropriate level, unless otherwise provided by law. The Ombudsman shall develop written procedures and guidelines for the handling of complaints which shall be made available on its website.</p>	

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<p><i>As many states have recognized, an independent Children’s Ombudsman having the authority to investigate systemic issues and recommend corrective action, can improve the overall child-service system.</i></p> <p><i>Based on the complaints received by the Office of the Children’s Ombudsman and results of the investigations, the Office would have the ability to move from dealing with individual complaints to examining systemic issues, thus, making recommendations to improve the child-serving system and preventing problems before they occur.</i></p>	<p><u>Recommendation 5</u> <i>Mission of Office –Systemic Improvements & Recommendations</i></p> <p>The Office of the Children’s Ombudsman shall promote continuous quality improvement in the administration of children’s services. If the Ombudsman identifies systemic problems that may hinder child-serving agencies from achieving comprehensive, positive outcomes for children, then they shall recommend policy, regulatory and legislative changes toward the goal of safeguarding the well-being of children to the appropriate child-serving agencies. These recommendations shall be included in their annual report to the Governor, General Assembly, and Virginia Commission on Youth.</p>	
<p><i>The Office of the Children’s Ombudsman would offer an opportunity for a governmental entity to promote higher standards of competency, efficiency and justice in the administration of children’s services.</i></p>	<p><u>Recommendation 6</u> <i>Mission of Office - Standards</i></p> <p>The Office of the Children’s Ombudsman shall promote higher standards of competency, efficiency and justice in the administration of children’s services with considerations given to best-practices for serving children within the state system.</p>	
<p><i>It is anticipated that many of the calls that the Office of the Children’s Ombudsman will receive will be from those in need of assistance navigating through the child-serving agencies. The Children’s Ombudsman should be able to refer children, parents, caregivers and provider to the appropriate resource.</i></p>	<p><u>Recommendation 7</u> <i>Mission of Office – Information and Referral</i></p> <p>The Office of the Children’s Ombudsman shall serve as a resource for information, referral, and guidance for children, parents, caregivers, providers, and citizens of the Commonwealth.</p>	
<p><i>Along with being independent, the Children’s Ombudsman should also be impartial. Impartiality enables the Children’s Ombudsman to:</i></p> <ul style="list-style-type: none"> ▪ <i>Advocate for a fair process;</i> ▪ <i>Review and receive complaints objectively; and</i> ▪ <i>Ensure neutrality.</i> <p><i>While advocating for a fair and equitably administered process, the Children’s Ombudsman should provide advocacy services for the children and families who place complaints with the Office.</i></p>	<p><u>Recommendation 8</u> <i>Mission of Office - Advocacy</i></p> <p>The Office of the Children’s Ombudsman shall provide advocacy for children and families who place complaints with the Office and seek to ensure a fair process. The Ombudsman may seek legislative changes for children and promote positive revisions in the child protection system’s policy and procedures when needed.</p>	

Findings/Conclusions	Recommendations	Comments
<p>Recommendation 9 is relevant only if Recommendation 1, Option 1 is adopted.</p> <p><i>As an independent state agency, the Office of the Children’s Ombudsman needs to have the authority to operate and manage the Office and to employ personnel.</i></p>	<p>Recommendation 9 Operational – Management of Office The Children’s Ombudsman shall be authorized to operate and manage the Office of Children’s Ombudsman and to employ the personnel required to carry out duties and responsibilities of the Office. In addition, the Children’s Ombudsman shall be authorized to make and enter into contracts and agreements that may be necessary and incidental to carry out the duties and responsibilities of the Office, and to apply for and accept grants from the United States government, agencies and instrumentalities thereof, and any other source, in furtherance of the provisions of this article.</p>	
<p>To maintain legitimacy of the Office, a Children’s Ombudsman must be able to function independent of agencies the Children’s Ombudsman oversees. In addition, another central element of the Children’s Ombudsman’s independence is ensuring that he or she is not subject to the control of the appointing authority.</p>	<p>Recommendation 10 Operational – Appointment of the Children’s Ombudsman</p> <p>Option 1: The Children’s Ombudsman shall be appointed by the Governor, initially for a term that expires one full year following the end of the Governor’s term of office, and, thereafter, the term shall be for four years and the Ombudsman may be reappointed for subsequent terms. Vacancies shall be filled by appointment by the Governor for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. The Governor may remove the Children’s Ombudsman from office for just cause.</p> <p>Option 2: The Children’s Ombudsman shall be appointed and governed by a Board consisting of citizens at large with a special interest in promoting higher standards of competency, efficiency and justice in the administration of children’s services. Appointments of the Children’s Ombudsman Board shall be from the Governor, House of Delegates and the Senate of Virginia. Vacancies shall be filled by appointment by the Children’s Ombudsman Board for the unexpired term and shall be effective until 30 days after the next meeting of the ensuing General Assembly and, if confirmed, thereafter for the remainder of the term. The Board may remove the Ombudsman from office for just cause. The term shall be for four years, and the Ombudsman may be reappointed for subsequent terms.</p>	<p>A private citizen recommends that, to avoid the appearance of partisan politics, the Governor be allowed to remove the Children’s Ombudsman only for malfeasance of office. In addition, there could be a 2-3 year gap between the Governor’s term of office and the term of the Children’s Ombudsman.</p>

Findings/Conclusions	Recommendations	Comments
<p><i>In order to carry out the duties and responsibilities of the Office, the Children’s Ombudsman requires the authority to conduct fact-finding through the investigation of institutions, facilities, and residences, public and private, where a child has been placed by a court or a child-serving agencies. In addition, the Children’s Ombudsman needs to have access to agency personnel and any record of a state or local agency that is necessary to carry out his or her investigation. Furthermore, it is necessary for the Children’s Ombudsman to have enforceable power to obtain documents which agencies may be withholding. Many states grant their Children’s Ombudsman subpoena power.</i></p>	<p><u>Recommendation 11</u> <i>Rights and Powers of the Children’s Ombudsman</i> The Office of the Children’s Ombudsman shall have the following rights and powers:</p> <ol style="list-style-type: none"> 1) In response to a complaint, to enter and inspect any and all institutions, facilities, and residences, public and private, where a child has been placed by a court or a child-serving agency and is currently residing. These inspections may be conducted unannounced. 2) To make such inquiries and obtain such assistance from any child-serving agency as the Ombudsman requires in the discharge of the Ombudsman’s duties. Agencies shall not restrict the Ombudsman’s access to agency personnel. Notwithstanding any other provision of state law, the Ombudsman has access to and can examine and copy, without payment of a fee, any child-serving agency records, including records which are confidential by state law. The Ombudsman shall not disclose confidential records and shall be subject to the same penalties as the legal custodian of the records for any unlawful or unauthorized disclosure. 3) To issue subpoenas for the purpose of enforcing the provisions of the Office of the Children’s Ombudsman. 	
<p><i>The Office of the Children’s Ombudsman may play a vital role in bringing hidden problems of the child-service system to the attention of the Governor, General Assembly and the public. Many states require their ombudsman not only to collect data, but also to make policy recommendations to correct the problems identified in their investigations.</i></p>	<p><u>Recommendation 12</u> <i>Operational – Reports</i></p> <p><i>Option 1:</i> The Office of the Children’s Ombudsman shall have the duty to keep the Governor, General Assembly, the Virginia Commission on Youth and the public fully and currently informed concerning significant problems, abuses, and deficiencies relating to the administration of the specified programs and child services; to recommend corrective actions concerning the problems, abuses, and deficiencies of such programs and services; and to report on the progress made in implementing the corrective actions.</p> <p><i>Option 2:</i> The Office of the Children’s Ombudsman shall have the duty to keep the Children’s Ombudsman Board, the Governor, General Assembly, the Virginia Commission on Youth and the public fully and currently informed concerning significant problems, abuses, and deficiencies relating to the administration of the specified programs and child services; to recommend corrective actions concerning the problems, abuses, and deficiencies of such programs and services; and to report on the progress made in implementing the corrective actions.</p>	<p>A private citizen recommends that the annual report be distributed broadly to the general public as well.</p>

Findings/Conclusions	Recommendations	Comments
<p><i>An annual report will give the Office of the Children’s Ombudsman an opportunity to share a summary of the work and activities of the Office.</i></p>	<p><u>Recommendation 13</u> <i>Reports – Annual Report</i> The Children’s Ombudsman shall provide periodic reports on the work of the Office of the Children’s Ombudsman, including but not limited to an annual written report to the Governor, General Assembly, and the Virginia Commission on Youth. The annual report shall be prepared not later than November 30 of each year and shall summarize the activities of the Office to the Governor, General Assembly and the Virginia Commission on Youth. The report shall include:</p> <ol style="list-style-type: none"> 1) Information concerning the numbers of complaints received and types of investigations completed by the Office during the reporting period and recommendations made to child-serving agencies; 2) Information concerning child-serving agency responses to complaints brought to their attention by the Ombudsman and any barriers to compliance with the Ombudsman’s recommendations; 3) A summary of matters referred to the attorneys for the Commonwealth, law enforcement, and agency heads, and actions taken on them during the reporting period; 4) Recommendations for improvements or needed changes concerning the provision of services to children by the child-serving agencies of the state; 5) Recommendations for systemic improvements in the provision of services to children, including and legislative changes necessary to promote positive changes in policy and procedure. 	

Findings/Conclusions	Recommendations	Comments
<p><i>When the Children’s Ombudsman has reasonable grounds to believe there has been a violation of criminal law, it should be the duty and responsibility of the Children’s Ombudsman to inform the appropriate authorities.</i></p> <p><i>In addition, when the Children’s Ombudsman identifies serious problems, abuses or deficiencies relating to the administration of the programs and services of state facilities and of providers, the Governor, along with the appropriate agency head, should be notified immediately.</i></p>	<p><u>Recommendation 14</u> <i>Operational - Notification</i> The Office of the Children’s Ombudsman shall notify in a timely manner the attorney for the Commonwealth for the locality in which a state facility, shelter care facility or detention home, as defined in §16.1-228, or residential public charter school is located and law enforcement, as appropriate, whenever the Children’s Ombudsman has reasonable grounds to believe there has been a violation of state criminal law. However, where the Children’s Ombudsman has reason to believe that a criminal offense has been committed in a state facility, notification of that suspicion shall be given to the agency head of that department.</p>	<p>A private child advocate voiced concerns about reporting to an agency head in the state facility. Concern was expressed that some problems may be “swept under the rug” to protect the image of the agency.</p>
	<p><u>Recommendation 15</u> <i>Reports – Notification of Serious Problems</i> The Children’s Ombudsman shall report immediately to the Governor and the Commissioners of the Department of Social Services, and Mental Health, Mental Retardation and Substance Abuse Services, the Director of Juvenile Justice, Health, and the Comprehensive Services for At Risk Youth and Families, or the Superintendent of the Department of Education, and Department of Correctional Education, as may be appropriate, whenever the Office becomes aware of serious problems, abuses, or deficiencies relating to the administration of the programs and services of state facilities and of providers.</p>	

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<p><i>In addition to giving the Office the ability to investigate complaints received by the Office of the Children's Ombudsman, Recommendation 16 allows the Ombudsman to conduct additional investigations. Many states have recognized that an independent ombudsman, who has the authority to investigate systemic issues and to recommend corrective action, may improve the overall child-serving system.</i></p>	<p><u>Recommendation 16</u> <i>Reports – Investigations Reports</i> The Children's Ombudsman may conduct additional investigations and make reports relating to the administration of the programs and services of state agencies.</p>	
<p><i>It is essential for the Children's Ombudsman to be independent from other organizations and entities. The independence should be in function, structure and appearance, thus enabling the Children's Ombudsman to:</i></p> <ul style="list-style-type: none"> ▪ <i>Report findings and make recommendations based exclusively on facts, law, reason and fairness, without preliminary clearances or approvals; and</i> ▪ <i>Be free from external influences and control.</i> 	<p><u>Recommendation 17</u> <i>Reports – Direct Reporting</i> <i>Option 1:</i> The reports, information, or documents required by or under this section shall be transmitted directly to the Governor, the General Assembly, and the Virginia Commission on Youth without preliminary clearances or approvals. The Children's Ombudsman shall, insofar as feasible, provide copies of the annual report to the Governor in advance of the date for their submission to allow a reasonable opportunity for comments of the Governor to be appended to the reports.</p> <p><i>Option 2:</i> The reports, information, or documents required by or under this section shall be transmitted directly to the Children's Ombudsman Board, the Governor, the General Assembly, and the Virginia Commission on Youth without preliminary clearances or approvals. The Children's Ombudsman shall, insofar as feasible, provide copies of the annual report to the Children's Ombudsman Board and to the Governor in advance of the date for their submission to allow a reasonable opportunity for comments to be appended to the reports.</p>	
<p><i>The ability to maintain confidentiality is one of the core components of an Ombudsman Office. Ensuring confidentiality encourages caregivers, social workers, children, youth, and others in reporting problems about individual placements or program deficiencies.</i></p>	<p><u>Recommendation 18</u> <i>Reports – Confidential Records</i> Records that are confidential under federal or state law shall be maintained by the Office of the Children's Ombudsman as confidential by the Ombudsman and shall not be further disclosed, except as permitted by law.</p>	

Findings/Conclusions	Recommendations	Comments
<p><i>The intent of the Office of the Children’s Ombudsman is not to duplicate any efforts of the child-serving agencies. Therefore, the Children’s Ombudsman should attempt to resolve complaints at the lowest appropriate level.</i></p>	<p><u>Recommendation 19</u> <i>Complaint Procedure</i> After initial investigation, the Ombudsman may decline to accept any complaint it determines is frivolous or not made in good faith. The Office of the Children’s Ombudsman shall attempt to resolve the complaint at the lowest appropriate level, unless otherwise provided by law.</p>	
<p><i>Cooperation of other state agencies is an essential element needed in order to operate an Office of the Children’s Ombudsman.</i></p>	<p><u>Recommendation 20</u> <i>Cooperation of Other State Agencies</i> The Office of the Children’s Ombudsman may request and shall receive from every department, division, board, bureau, commission, authority, or other agency created by the Commonwealth, or to which the Commonwealth is a party, or from any political subdivision of the Commonwealth, cooperation and assistance in the performance of its duties.</p> <p><u>Recommendation 21</u> <i>Cooperative Agreements with State Agencies Regarding Advocacy Services for Their Clients</i> Notwithstanding the foregoing, state agencies providing services to children may develop and maintain advocacy, client assistance, or ombudsman services for their clients, which services may be within the agency and independent of the Office of Children’s Ombudsman. The Office may enter into cooperative agreements with any state agency providing advocacy, client assistance, or ombudsman services for the agency’s clients, in order to ensure the protection of and advocacy for children, provided that such agreements do not restrict such authority as the Office may otherwise have to pursue any legal or administrative remedy on behalf of children.</p>	
<p><i>As part of the 2006 General Assembly’s bill review process, Virginia Department of Planning and Budget analyzed the fiscal impact of Senator Edwards’ Children’s Ombudsman, SB 208. The fiscal impact for establishing the Office, specifically the funding for eight staff positions (Director, Assistant Director, two office service specialists and four health/welfare analysts) was approximately \$500,000. The Commission estimates that cost of the Office would be approximately the same amount as determined in 2006.</i></p>	<p><u>Recommendation 22</u> <i>Budget - Operating</i> Introduce a budget amendment providing the monies necessary for the Office of the Children’s Ombudsman to carry out its duties and responsibilities. In addition, the budget amendment shall include funding for marketing the services of the agency. This budget amendment will set forth the operating budget for the Office of the Children’s Ombudsman, as well as the number of full time equivalents (FTEs).</p>	

