



COMMONWEALTH OF VIRGINIA  
*Virginia Board for People with Disabilities*

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**Heidi L. Lawyer**  
*Executive Director*

*Washington Building, Capitol Square  
1100 Bank Street, 7th Floor  
Richmond, Virginia 23219*

804-786-0016 (TTY/Voice)  
1-800-846-4464 (TTY/ Voice)  
804-786-1118 (Fax)  
info@vbpd.virginia.gov  
www.vaboard.org

May 22, 2013

David Foster, President  
Board of Education  
Dr. Patricia I. Wright, Superintendent  
Virginia Department of Education  
P. O. Box 2120  
Richmond, VA 23218

RE: Regulations Governing the Operation of Private Schools for Students with Disabilities  
in the Commonwealth, 8 VAC20-670-10 et seq.

Dear Mr. Wells and Dr. Wright:

I am writing on behalf of the Virginia Board for People with Disabilities (hereafter "the Board"), which is the Commonwealth's Developmental Disability Council, to provide comment on the aforementioned proposed regulations under 8 VAC20-670-10 et seq. First, the Board appreciates and wants to thank the Department for delaying Virginia Board of Education (VBOE) action on the proposed regulations. This proposal is very significant, not only because the regulations directly align with a number of VBOE Goals for 2012-17, but also because they will have a major impact on the quality of academic services for students with disabilities served in private schools.

The Board has signed on to and strongly supports the public comments made by the Virginia Coalition for Students with Disabilities. We also stand in support of comments made by the Virginia Office for Protection and Advocacy (VOPA). In particular, the Board opposes proposed language which would allow use of "aversive stimuli" and of prone, face-down restraints (under 8 VAC20-671-650); and we recommend restoring prohibitions of both practices. Neither of these interventions has been proven effective in behavioral change, and both pose major risks — emotional and physical — to students with disabilities.

VBPd Letter to Mr. Foster and Dr. Wright  
Comments on Private School Regulations  
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The Board additionally is very concerned about the use of seclusion and restraint as proposed in the regulations (8 VAC20-671-660). The Board supports the Coalition's recommendation that VDOE revise the regulations to ensure that use of seclusion and restraint is only used in emergencies which pose an immediate danger of physical harm to self or others and only after less restrictive measures have failed or have been determined to be ineffective.

Relatedly, the Board concurs with the Coalition's recommendations that the regulations should be more specific in addressing behavioral interventions (8 VAC20-671-630) including the following:

- redefinition and adoption of evidence-based positive behavioral interventions;
- development of person-centered behavioral plans based on professional assessments which include both the student and family/guardian;
- systemic approaches to embed evidence-based practices and data-driven decisions; and
- prohibition on including seclusion, restraint and aversive stimuli as part of any behavioral plan.

Thank you for this opportunity to comment on these regulations, and again, our thanks for allowing more time to consider these regulations and obtain more comment. Please contact me if you have any questions by phone at (804) 786-9369 or by email at [Heidi.Lawyer@vbpd.virginia.gov](mailto:Heidi.Lawyer@vbpd.virginia.gov).

Sincerely,



Heidi L. Lawyer

Cc: Dr. John Eisenberg, Assistant Superintendent, Division of Special Education & Student Services  
Dr. Sandra E. Ruffin, Director, Federal Program Monitoring, Division of Special Education & Student Services  
Ms. Carolyn Hodgins, Monitoring Specialist, Private Day Schools