

**PROCEDURES FOR REQUESTING APPROVAL OF
ALTERNATIVE SPECIAL EDUCATION STAFFING
PLANS**

Effective January 1, 2001

**Virginia Department of Education
Instructional Support Services
Office of Special Education and Student Services**

A. Background

1. Each school division and private special education school must comply with the special education staffing requirements set forth in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* and Appendix A of those regulations (8 VAC 20-80-45, refer to attachment), unless an alternative special education staffing plan has been approved by the Virginia Department of Education in accordance with these procedures. Such a plan must

ensure that the requirements of the state and federal laws governing the education of children with disabilities are followed.

2. The standard for review for determining whether an alternative staffing plan should be approved is the appropriateness of the plan for each child with a disability affected by the proposal. Since each individual student has unique needs, an alternative to the special education staffing requirements set forth in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* may be necessary. An alternative staffing plan can be for the benefit of one child or a group of children. Since the individual needs of students must be considered, proposed alternative staffing plans that affect more than one student should be carefully designed to ensure that the plan is appropriate for each student.
3. In accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* at VAC 20-80-45(D), information on alternative staffing plan requests and approvals must be made available to teachers and parents. School divisions and private schools should involve teachers, other service providers, and parents in developing alternative staffing plan requests. Students' individualized education program (IEP) teams must be in agreement with recommended program or placement changes as a result of an alternative staffing plan.
4. The summer months are the most practical time for school divisions and private schools to develop alternative staffing plans unless the plan is for students new to the school, newly identified as a student with a disability, or a student whose needs have changed during the school year.

B. Requesting Approval of an Alternative Staffing Plan

1. Requests for approval of alternative special education staffing plans shall be submitted to and approved by the Virginia Department of Education prior to implementation. If there is a mid-year development or revision of an IEP that would require approval of an alternative staffing plan, the IEP may be implemented with consent of the parent or parents, pending review and approval by the Virginia Department of Education.
2. Local school division superintendents or private special education school directors shall submit requests for approval of alternative staffing plans to the Virginia Department of Education's Director of Special Education and Student Services on the form provided in these procedures.

The request must include:

- a. the anticipated date of implementation of the proposed plan;
- b. the reason for requesting an alternative staffing plan, including a description of the current staffing pattern and reason for changing;

- c. a description of the proposed alternative staffing plan, including a description of the benefits to the student(s), how their IEPs will be implemented, and impact on the general education and/or special education classroom/setting;
 - d. a summary listing of the students involved in the proposal by disability category, level of services¹ and age (do not provide students' names);
 - e. information on the teachers' endorsements and experience;
 - f. the need for, availability and role of, one or more paraprofessional(s) in the plan;
 - g. description of how teachers, other service providers, and parents were involved, and how the information is made available;
 - h. assurance statements regarding compliance with federal and state laws and reduction of staff positions.
3. No plan which would result in the violation of state or federal laws and regulations governing the education of students with disabilities, or which reduces the number of staff positions in accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8 VAC 20-80-45 will be approved.

C. Timelines

1. Requests for approval shall be processed as follows:
 - a. Upon receipt of the Alternative Special Education Staffing Plan Approval Request Form, the Virginia Department of Education shall review the request.
 - b. No later than 10 business days after receiving the request, the Virginia Department of Education will notify the local school division superintendent or contact person, or the private special education school director of one of the following:
 - (1) the alternative staffing plan is approved;
 - (2) the alternative staffing plan is approved with modifications;
 - (3) the alternative staffing plan is denied; or
 - (4) additional information is needed before the Virginia Department of Education can make a determination.

¹ Time receiving related services does not figure into the calculation of time receiving special education for the purposes of determining the level of services a student is receiving.

- c. When the Virginia Department of Education has requested additional information, the school division or private special education school will provide the requested information within 5 business days after receiving the request for additional information from the Department. No later than 5 business days after receiving the additional information, the Department will notify the local school division superintendent or contact person, or the private special education school director of the outcome of the Department's review.

- d. If the timelines set forth above need to be extended, this should be documented.

D. Continuation of an Alternative Staffing Plan

Requests for approval to continue an alternative special education staffing plan approved in the previous school year must be submitted by July 15 so that approval can be prior to the beginning of the next school year.

E. Change of Conditions During the Period of the Plan

Within 10 business days, the local school division or private special education school should notify the Virginia Department of Education if there is a change in the student population, teacher assignment, or program. Upon such notification, the Virginia Department of Education may request a resubmission of the Alternative Special Education Staffing Plan Approval Request Form or portions of it.

F. Due Process Rights

Approval of an alternative special education staffing plan by the Virginia Department of Education does not preclude a parent or local school division from disputing and ultimately prevailing in that dispute, the identification, evaluation, placement, and services or other provisions of a free appropriate public education for a child through the due process and/or complaint procedures set forth in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8 VAC 20-80-76 & 78.

VIRGINIA DEPARTMENT OF EDUCATION
ALTERNATIVE SPECIAL EDUCATION STAFFING PLAN APPROVAL REQUEST FORM²

Public School Division or Private Special Education School: _____

Contact Person: _____ Position/Title: _____

Address: _____

Telephone No.: _____ Fax No.: _____

E-mail: _____

Date of anticipated implementation of the proposed alternative staffing plan:

Reason for requesting the proposed alternative staffing plan (describe the current staffing pattern and the reason for changing):

Describe the proposed alternative staffing plan, including the benefit this plan will have for the student(s), a description of how the IEP(s) will be implemented, and the impact on the general and/or special education classroom/setting:

² Review the Virginia Department of Education Procedures for the Approval of Alternative Special Education Staffing Plans prior to completing this form. Attach additional pages as needed.

**TOTAL STUDENTS BY DISABILITY CATEGORY, LEVEL OF SERVICES, AND AGE
 AFFECTED BY THE PROPOSED ALTERNATIVE STAFFING PLAN ³**

DISABILITY CATEGORY	NUMBER OF STUDENTS RECEIVING LEVEL I SERVICES	NUMBER OF STUDENTS RECEIVING LEVEL II SERVICES	AGE RANGE OF STUDENTS
Autism			
Deaf-Blind			
Developmental Delay			
Emotional Disturbance			
Hearing Impairment or Deafness			
Mental Retardation			
Multiple Disabilities			
Orthopedic Impairment			
Other Health Impairment			
Severe Disabilities			
Specific Learning Disability			
Speech-Language Impairment			
Traumatic Brain Injury			
Visual Impairment or Blindness			
Child with a disability, No Category (attach description)			
TOTAL NUMBER OF STUDENTS			

³ Level I services means the provision of services for less than 50% , level II means provision of services for 50% or more, of the instructional school day (excluding intermission for meals). The time that a child receives special education services is calculated on the basis of the services described in the IEP, rather than the location of services. Time receiving related services does not figure into the calculation of time receiving special education for the purposes of determining the level of services a student is receiving.
Do not provide students' names.

**TEACHERS BY ENDORSEMENTS AND EXPERIENCE
 AFFECTED BY THE PROPOSED ALTERNATIVE STAFFING PLAN ***

TEACHER NAME	ENDORSE- MENT	EXPERIENCE (Describe relevant experience)
TOTAL NUMBER OF TEACHERS		

* If specific teachers have not been identified, indicate “Not Identified” under Teacher Name, and under Endorsement and Experience columns describe the desired endorsement(s) and experience for this plan. **If the plan is approved, specific teacher information must be submitted to the Virginia Department of Education within 10 business days of identifying/hiring.**

**WILL A PARAPROFESSIONAL(S) BE AVAILABLE? NO _____ YES _____
 FOR _____% OF INSTRUCTIONAL DAY. Describe the role of the
 paraprofessional(s):**

Describe how teachers, other service providers, and parents were involved in the development of the alternative staffing plan:

Describe how the alternative staffing plan requests and approvals are made available to teachers and parents:

ASSURANCE STATEMENTS

1. The proposed alternative staffing plan does not result in any violation of federal or Virginia laws and regulations governing the education of students with disabilities for any child in the affected program, and a continuum of alternative placements is available to each student with disabilities.

2. In accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8 VAC 20-80-45(D), the proposed alternative staffing plan does not reduce the number of staff positions.

3. In accordance with the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*, 8 VAC 20-80-45(D), information on alternative staffing plan requests and approvals is available to teachers and parents.

Printed Name of Division Superintendent or
Director of Private Special Education School

Signature of Division Superintendent
or Director of Private Special Education School

Date

Submit Completed Form To:
Director of Special Education and Student Services
Virginia Department of Education
P. O. Box 2120
Richmond, Virginia 23218-2120
Fax (804) 371-8796

FOR DEPARTMENT OF EDUCATION USE ONLY

Request Received: _____ Date Program Staff Assigned: _____ Name

Additional Information Requested: _____ Date

Additional Information Received: _____ Date

Approved: _____ Date

Approved with Modifications (attached): _____ Date

Denied (reasons attached): _____ Date

**Attachment to Procedures for Requesting Approval of Alternative Special
Education Staffing Plans**

**Excerpt from Regulations Governing Special Education Programs for Children
with Disabilities in Virginia**

8 VAC 20-80-45. Special education staffing requirements.

A. School age programs. The following specifies the staffing patterns for special education services for school age (five to 21, inclusive) children.

*Virginia Appropriations Act; 34
CFR ' 300.136 (a) and (b) (1)*

1. Grouping. When children with disabilities are removed from the general education classroom for special education and related services, they may receive services with children with the same disability or with children with different disabilities. Each child must receive special education services from special education personnel assigned in accordance with the requirements of Figure A in this section. Each child may receive some special education and related services from personnel not endorsed in the child's disability area or areas, but holding a special education endorsement as specified in Figure A.

2. Personnel assignment.

a. Personnel assignment requirements are listed in Figure A.

b. Personnel not meeting the assignment requirements of Figure A may provide some services to children with disabilities if the children receive special education services from personnel assigned in accordance with Figure A.

c. Personnel providing services to a child who has more than one disability are not required to be endorsed in all areas of the child's disabilities. The child shall receive some services for each disability from appropriately endorsed personnel.

3. Caseload standards.

a. The maximum special education caseloads, with and without paraprofessionals, are set and funded in the Virginia Appropriation Act. See Appendix A for the funded caseloads. Special education services for children with visual impairment shall be established, maintained, and operated jointly by the local school board and the Virginia Department for the Blind and Vision Impaired.

b. If children with disabilities in a single building receive academic content area instruction from multiple special education teachers, the teachers' caseloads shall be determined by using a building average.

(1) A building average is computed by dividing the total weights (found in Appendix A) for all children served in this fashion by the number of special education teachers providing services. Any itinerant teacher shall be counted according to the amount of time the teacher spends in the school. Subdivision 3 d of this subsection applies for any teacher assigned to administrative duties or to providing services to children who do not have disabilities.

(2) The building average shall not exceed 20 points if services are provided to students receiving level I services and to children receiving level II services. The building average shall not exceed 24 points if services are provided only to children receiving level I services.

(3) No more than 14 children shall be assigned to a single class period if there are similar achievement levels and one subject area and level are taught. No more than 10 students shall be assigned to a single class period when there are varying achievement levels and more than one subject area and level are taught.

c. Special education personnel may also be assigned to serve children who are not eligible for special education and related services under this chapter, as long as special education personnel hold appropriate licenses and endorsements for such assignments.

d. When special education personnel are assigned to provide services for children who do not have a disability under this chapter or are assigned to administrative duties, a reduction in the caseload specified in the Virginia Appropriation Act must be made in proportion to the percentage of school time on such assignment.

(1) This provision does not apply when special education and related services are provided in a general education class, based on the goals and objectives of the IEP of at least one child in that classroom, and children without disabilities incidentally benefit from such services.

(2) When special education personnel provide services in a general education classroom based on the IEP goals and objectives of at least one child in that classroom, the special education caseloads do not include children with disabilities who incidentally benefit from such services.

B. Programs for early childhood special education.

Virginia Appropriations Act; 34 CFR ' 300.136 (a) and (b) (1)

1. Children of preschool ages (two to five, inclusive) who are eligible for special education receive early childhood special education. The amount of services is determined by the child's individualized education program team. A full 5 1/2 hour day shall be provided if determined appropriate by the IEP team.

2. Staffing requirements.

a. Children receiving early childhood special education services may receive services together with other preschool-aged children with the same or with different disabilities.

b. Personnel assignment standards are listed in Figure B.

c. The maximum special education caseloads, with and without paraprofessionals, are set and funded in the Virginia Appropriation Act. See Appendix A for the funded caseloads. Special education services for children with visual impairment shall be established, maintained, and operated jointly by the local school board and the Virginia Department for the Blind and Vision Impaired.

C. Staffing for education programs in regional and local jails. Special education personnel with any special education endorsement, except early childhood special education and speech-language impairment, may provide instructional services to eligible students with disabilities incarcerated in a regional or local jail.

D. Alternative special education staffing plan. Local school divisions and private special education schools may offer an alternative staffing pattern that ensures the requirements of this chapter are met. An alternative staffing plan that reduces the number of staff positions will not be acceptable. If the local school division or private special education director plans to implement a different staffing pattern from those specified in this chapter, the local school division superintendent, or private special education school director, shall receive approval to implement an alternative staffing plan from the Virginia Department of Education in accordance with the procedures established by the Virginia Department of Education. Information on alternative staffing plan requests and approvals shall be available to teachers and parents.

Figure A. Special education personnel assignment requirements for school-aged children, ages five to 21, inclusive, in local school divisions.

Disability Category	Endorsement
Autism	any special education endorsement, as appropriate to student needs
Deaf-blindness	severe disabilities K-12 or any other special education endorsement, as appropriate to student needs
Developmental Delay: ages 5-8	any special education endorsement, as appropriate to student needs
Emotional Disturbance	emotional disturbance K-12
Hearing Impairment/Deaf	hearing impairments preK-12
Learning Disabilities	learning disabilities K-12
Mental Retardation	mental retardation K-12
Multiple Disabilities	severe disabilities or any other special education endorsement, as appropriate to student needs
Orthopedic Impairment	any special education endorsement, as appropriate to student needs
Other Health Impairment	any special education endorsement, as appropriate to student needs
Severe Disabilities	severe disabilities K-12
Speech or Language Impairment	speech or language disorders preK-12
Traumatic Brain Injury	any special education endorsement, as appropriate to student needs
Visual Impairment	visual impairments preK-12

Licensure Regulations for School Personnel (8 VAC 20-21-10 et seq.)

Figure B. Special education personnel assignment requirements for preschool children, ages two to five, inclusive, in local school divisions.

Disability Category	Endorsement
Developmental Delay: ages 2 – 5	early childhood special education
Hearing Impairment/Deaf	hearing impairments preK-12
Speech or language impairment	speech or language disorders preK-12
Visual Impairment	visual impairments preK-12
All other disability categories	early childhood special education

Licensure Regulations for School Personnel (8 VAC 20-21-10 et seq.)

Appendix A

Figure 1. Local school division caseload maximums as funded by the Virginia Appropriation Act.

Disability Category	Level II		Level I
	<i>With Paraprofessional 100% of the time</i>	<i>Without Paraprofessional 100% of the time</i>	
Autism	8	6	24
Deaf-blindness	8	6	
Developmental Delay: age 5 - 8	10	8	
Developmental Delay: age 2 – 5	8 Center Based 10 Combined	12 Home Based and/or Itinerant	
Emotional Disturbance	10	8	24
Hearing Impairment/Deaf	10	8	24
Learning Disability	10	8	24
Mental Retardation	10	8	24
Multiple Disabilities	8	6	
Orthopedic Impairment	10	8	24
Other Health Impairment	10	8	24
Severe Disabilities	8	6	
Speech or Language Impairment			68 (itinerant)
Traumatic Brain Injury	May be placed in any program, according to the IEP.		
Combined group of students needing Level I services with students needing Level II services.	20 Points (see Figure 2)		

Figure 2. Values for students receiving Level I services when combined with students receiving Level II services.

Disability Category	Level II Values		Level I Values
	<i>With paraprofessional 100% of the time</i>	<i>Without paraprofessional 100% of the time</i>	
Autism	2.5	3.3	1
Deaf-blindness	2.5	3.3	1
Developmental Delay: age 5 - 8	2.0	2.5	1
Emotional Disturbance	2.0	2.5	1
Hearing Impairment/Deaf	2.0	2.5	1
Learning Disability	2.0	2.5	1
Mental Retardation	2.0	2.5	1
Multiple Disabilities	2.5	3.3	1
Orthopedic Impairment	2.0	2.5	1
Other Health Impairment	2.0	2.5	1
Severe Disabilities	2.0	2.5	1
Traumatic Brain Injury	2.0	2.5	1