



COMMONWEALTH of VIRGINIA  
Department of Education

November 9, 2012

TO: Division Superintendents

FROM: Patricia I. Wright, Superintendent of Public Instruction

**SUBJECT: Virtual School Programs and Special Education Responsibilities**

The following information is provided in response to inquiries regarding which school division is responsible for the provision of Child Find and a free appropriate public education (FAPE) for a child with a disability who receives full-time virtual instruction from a school division different from the division of the child's residence.

The *Individuals with Disabilities Education Improvement Act* (IDEA 2004) requires states to identify the public entities responsible for Child Find and FAPE. Virginia has established these standards through its residency requirements in the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* at 8 VAC 20-81-30 (FAPE) and 8 VAC 20-81-50 (Child Find). Following our review of these regulations, we have determined that if the virtual student is a resident of the school division providing the virtual program, then that school division is responsible for Child Find and FAPE for students with disabilities. However, if the student receives full-time virtual instruction from a school division other than the division of the child's residence, then the school division of the child's residence is responsible for Child Find and FAPE. Please note that the school division providing the virtual program to a non-resident student has Child Find responsibility to the extent only of referring a child suspected of having a disability to the child's school division of residence.

The school division providing the virtual program receives the average daily membership (ADM) pursuant to enrolling the student in accordance with § 22.1-212.27 of the *Code of Virginia*. The federal award under IDEA Part B for the school division of residence will not be affected by a student with a disability receiving the virtual instruction in another school division.

Please forward this information to your directors of special education and school personnel responsible for any virtual school program in your division. If you have questions or need additional information regarding this matter, please contact Patricia Haymes, Office of Dispute Resolution and Administrative Services, by e-mail at [Patricia.Haymes@doe.virginia.gov](mailto:Patricia.Haymes@doe.virginia.gov) or by phone at 804-786-0116. Questions about reporting data for purposes of student data collection should be directed to Susan Williams, Educational Information Management Services, by e-mail at [Susan.Williams@doe.virginia.gov](mailto:Susan.Williams@doe.virginia.gov) or by phone at 804-225-4112. Questions about December 1 Child Count should be directed to Angela Phenicie, Special Education Data Services, by e-mail at [Angela.Phenicie@doe.virginia.gov](mailto:Angela.Phenicie@doe.virginia.gov) or by phone at 804-371-7582.

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