

COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND



**WILLIAM J. HOWELL**  
SPEAKER

TWENTY-EIGHTH DISTRICT

COMMITTEE ASSIGNMENTS:  
RULES (CHAIRMAN)

September 9, 2008

Dr. Mark E. Emblidge  
President  
Virginia Board of Education  
413 Stuart Circle, Suite 130  
Richmond, Virginia 23220

Dear Dr. Emblidge:

Thank you for taking the time to meet with Delegate Morgan Griffith and my legislative Assistant, Kathy Roberts, to discuss the proposed revisions to the *Regulations Governing Special Education Services for Students with Disabilities in Virginia*. I regret that I was out of town and unable to participate in the meeting but, upon being briefed of the discussion that took place, I am pleased with the progress on this issue.

Delegate Griffith and Ms. Roberts shared with me your comments regarding our initial concerns. I am pleased to hear that members of the Board have expressed support for preserving current regulations regarding parental consent, parental input, due process hearing officers and IEP requirements. Keeping these elements of our current regulations intact will enable Virginia to continue to serve her most vulnerable students and their families at the level of quality we have come to expect in the Commonwealth.

I understand that the remaining proposed revisions are still under consideration by the Board. Several of my colleagues and I continue to harbor concerns. The proposed change in the *Timeline for an Eligibility* decision [8 VAC 20-81-60 p.97] could potentially require families to wait four months for a decision – nearly half the school year. The proposed revision to *Functional Behavioral Assessments (FBAs)* [8 VAC 20-81-10 p.27-28] eliminating the requirement for an evaluation and allowing for solely a review of records seems inadequate when considering that significant disciplinary actions may be implemented based on very limited information. Finally, the proposed changes to the *Eligibility Criteria* [8 VAC 20-81-80 p.119-120] and *Developmental Delay* category [8 VAC 20-81-80 p. 121] may narrow the criteria in such a manner that limits the flexibility local education agencies currently enjoy, and result in underserving the disabled student population. Placing these students in a mainstream program without the proper support could place an undue burden on classroom teachers and administrators.

Dr. Mark E. Emblidge  
September 9, 2008  
Page 2

As a member of the Joint Commission on Administrative Rules, Delegate Griffith will be discussing these concerns at the Commission's upcoming meeting Thursday, September 11.

Again, I appreciate your quick response to our initial concerns, and your open and frank discussion on this issue. I look forward to continuing to work together to ensure that Virginia's most vulnerable students are provided with the best educational opportunities we can offer.

Sincerely,

A handwritten signature in black ink that reads "W - J Howell". The signature is written in a cursive style with a horizontal line separating the first and last names.

William J. Howell

WJH/kr

cc: The Honorable Timothy M. Kaine  
The Honorable Thomas Morris