

## **Albemarle County Public Schools Special Education Advisory Committee 2022 – 2023 Annual Report**

In accordance with Regulations Governing Special Education Programs for Children with Disabilities in Virginia [1] the Albemarle County Public Schools (ACPS) Special Education Advisory Committee (SEAC) is pleased to provide parents and members of our community with an opportunity to have a voice in the way our school division provides services to students with disabilities. Navigating these last few years has certainly been challenging for us all. We continue to appreciate the School Board and each employee in our school division. Our community is encouraged by the opportunity to share our concerns and collaborate with ACPS leadership to further positive change for students with disabilities. With respect, please find the top four concerns raised by SEAC during the 2022-2023 school year below:

### **ACPS Response to Overall Report:**

**We want to first thank SEAC for their tireless efforts and service to Albemarle County Public Schools and to the special education students/families for whom they advocate. Their annual report with suggestions for changes has always been a helpful document to the ACPS Special Education Department and to the Superintendent. While the report and answered questions from the presentation this year continues to make suggestions for our continuous improvements, it also has several assertions that should be clarified to correct the public record.**

**ACPS identifies 13.5% of the student body as requiring Special Education. This is compared to 13.9% in Virginia and 15%, nationwide. Similarly, ACPS identifies approximately 30% of its students as being economically disadvantaged according to Free/Reduced Lunch rates. In the nation, approximately 50% of identified special education students are economically disadvantaged. In ACPS, 41% of the special education students are economically disadvantaged. While the 10% difference continues to tell us that we are over-identifying our economically disadvantaged students, it is not 50% as was reported to the school board during the presentation.**

**For the remainder of this document, a focus will be placed on a response to the SEAC annual report.**

### **1. Increase Family Engagement**

This year the SEAC is composed of 24 committed parents, educators, and community members. 13 of 15 Elementary Schools, 2 of 6 Middle Schools and 2 of 3 High Schools in ACPS have dedicated representatives. Our members have worked diligently to engage with their school communities and communicate with parents that their voices and life experiences are critical in our efforts to create positive change for individuals with disabilities. However, SEAC members continue to hear and observe disengagement and distrust of the system. Families have reported to SEAC that there is a lack of administrative transparency in the decision-making processes affecting students in special education--and that children with disabilities appear to be an afterthought. Of particular importance is the class action lawsuit filed in September against the

Virginia Department of Education (VDOE) and the Fairfax County School Board alleging that the Virginia due process hearing officers are not impartial, but in fact, have the worst ruling record of any major state in the entire country with respect to parents who have brought claims under the Individuals with Disabilities Education Act (IDEA). Specifically, over an 11-year period, only 1.5% (13 of 847) of cases ruled in favor of parents in Virginia compared to other states who average around 30%. While we recognize that ACPS is not directly named in that lawsuit, the allegations against VDOE do directly impact our families and amplify a sentiment of hopelessness in advocating for what is best for our children. We respectfully request that a greater emphasis be placed on listening to the voices of our special education community and reengaging with our families in a way that honors their input in their children's education.

### **ACPS Response to Concern 1 (Family Engagement):**

**ACPS believes that one of the keys to every student's success is family engagement. The Special Education Department prides itself in continuous improvement in this area. There seems to be two broad themes included in this concern: Dispute Resolution and Parent Input.**

**First, SEAC cited the class action lawsuit against another school division in Virginia about Due Process Hearing Officers. SEAC asserts that Due Process Hearing Officers siding with school divisions over families fosters a sentiment of hopelessness in ACPS for families of students with disabilities. The Office of Special Education does not utilize VDOE Due Process Proceedings as a productive means to resolve disputes. While we certainly respect that Due Process Proceedings are a right afforded to every parent of a child with a disability, our local experience is that the Due Process Proceedings (these are legal court proceedings) result in a severed relationship between the family and the school division that is not easily repaired. In fact, ACPS has not been engaged in a Due Process Proceeding in at least 10 years. We have, instead, promoted and opted for the utilization of more effective means of dispute resolutions such as collaborative problem solving, productive resolution planning, and mediation. Currently the Special Education Administrative Team collaborates with families and school division staff to work through and solve disputes in the best interest of children while following the required federal and state regulations as well as local policies and practices. The Office of Special Education has received many communications from families and from school based personnel that this collaborative process is effective, efficient and in the best interest of the individual student.**

**While this may be a difference of perspective, one of the primary roles served by the administrative team at Central Office is to problem solve at the request of families, principals and teachers. It is quite common that parents reach out to our team on a weekly basis sharing their concerns and requesting our services. Our office experience is that the end result of our work with families and schools are generally productive, with the vast majority of concerns, conflict and dissatisfaction resulting in a resolution that is in the best interest of the child.**

**Second, SEAC asserts that families of children with special needs do not have their voices heard nor their input on their individual child honored. Every Individualized Education Plan**

(I.E.P) requires that parental input and concerns be solicited and heard, documented and included in the child's educational plan. A parent also has the right to ask for an I.E.P. meeting at any time to have a concern heard, documented and responded to. All parental concerns are valid and should be responded to in a formal manner. However, that does not mean that all parental concerns/requests are agreed upon by ACPS and implemented without discussion, problem solving, and determining if it is in fact required for the child to receive a meaningful educational program and make progress in light of their unique circumstances. It is our firm belief that engaging in collaborative problem solving does not mean that voices are not heard or honored, it means that both parties express their point of view as we work towards resolution.

## **2. Include Parents and IEP teams in all Decisions Regarding the Placement and Location of Services for Children with Disabilities.**

The VDOE audit during the 2021-2022 school year defined the following as an Essential Action Item: "The services and placement needed by each child with a disability to receive a free appropriate public education shall be based on the child's unique needs and not on the child's disability." While we appreciate that the documentation required to support evidence of progress/completion by ACPS includes additional IEP team training, the root of the issue that our families encounter is that parental input and IEP teams are not, in fact, included in planning discussions/decisions regarding the placement of students in the BASE programs ACPS has chosen to implement. Nor are they included in discussions/decisions if, for example, a child with Autism is removed from their school community to attend an A(Autism)-BASE program in a different school community. Each signed IEP clearly states, "The IEP describes the student's educational program. The attending school is defined by the school division and is subject to change." We've heard from numerous families that the communication of this reassignment occurs, sometimes annually, by abruptly receiving a letter informing their family that their child will be sent outside their community to receive services. Most children, neurotypical and neurodivergent, have difficulty with transitions and changes in routine. Changing the physical location of services can be especially traumatic for neurodivergent children, and their families, who have worked diligently to build trust and community. This is amplified for families with children who struggle with verbal communication due to a disability. Making a change that uproots a child from their known support system without an IEP meeting or any parental input has been especially alarming for our families.

We do not believe preventing parental input in any educational decision regarding their child, especially one as critical as removing a child from their home community, is in accordance with the Mission and Values of ACPS or our community. Furthermore, by not considering early input from school administrators, teachers, and support staff, this practice undermines the integrity and function of the IEP team to collectively make decisions regarding the education of a child with a disability. We respectfully request that this practice be carefully reevaluated by leadership in a manner that is more consistent with the ACPS Mission: "Working together as a team, we will end the predictive value of race, class, gender, and special capacities for our children's success through high-quality teaching and learning for all. We seek to build relationships with families and communities to ensure that every student succeeds."

## ACPS Response to Concern 2 (Placement and Assigned School):

The State of Virginia is a parental consent state which means that no change in placement can occur without parental consent. Parental consent for I.E.P. purposes means that the parent has provided a signature that indicates agreement with the I.E.P. proposal. SEAC is incorrectly asserting that I.E.P. placement is the same thing as assigned school location. These two terms are in fact, legally and operationally, very different.

I.E.P. placement is the setting / context in which the I.E.P will be implemented. There is a placement continuum noted in each IEP document that can range from the least restrictive settings like the general education classroom setting to more restrictive settings such as a therapy room or special education room. The continuum extends to the most restrictive settings such as homebound, private or separate day schools, residential and even hospital settings. A change in placement cannot be implemented without parental consent. That is clearly outlined in Federal IDEA Regulations and State Regulations and local policy and procedures.

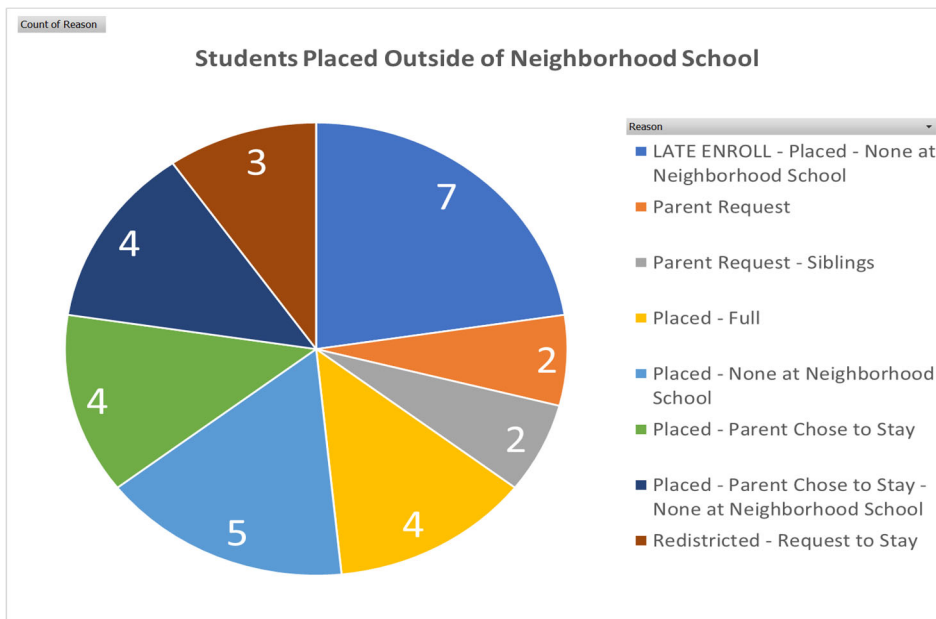
Assigned School location is the ACPS school building in which the I.E.P. can be implemented. An I.E.P. Team proposes what is required for the student to receive meaningful educational benefit, in light of their unique circumstances, and proposes a least restrictive setting, seeking parent consent. At this juncture the I.E.P. Team does not determine the assigned school location. The I.E.P. team's primary responsibility is focused on what is required for the student to receive a free and appropriate public education. Once that proposal is made, the parent is asked to either consent to implementing the I.E.P. or reject implementing the I.E.P. If a parent rejects implementing the I.E.P. the new I.E.P. cannot be implemented and the previously agreed upon I.E.P. remains in place. If a parent does provide consent to implement the I.E.P., then ACPS reviews the needs of the child and has the legal authority and local prerogative to determine if the I.E.P. can be implemented in the current assigned school or if the child must be assigned to another school location in order to receive the services and support they require as outlined in their I.E.P. If it can be implemented in the current assigned school location, then the student begins receiving services in that assigned location. If it cannot be implemented, then the ACPS Office of Special Education determines the next closest location in which the student's I.E.P. can be implemented.

The Office of Special Education does not believe that change, in and of itself, is a bad thing for anyone, including children with disabilities, when done in a supportive and caring way and for the required reasons. This office also asserts that it is more important to provide the services deemed required in the IEP than making the base school location the only determination of services. We assert that in required I.E.P. instances, transition will provide the student the life skills to manage the transition in such a way that builds an appropriate skill set that promotes resiliency for future inevitable transitions. ACPS is also committed to build staffing structures and model programs in schools in order for them to be with friends/peers, minimize travel time to and from school as well as to promote parent and school partnerships.

During the 2022-2023 school year, 31 out of 1840 students are currently placed outside of their neighborhood school. There are many factors that determine this number which include but are not limited to:

- Families who request to be moved to a BASE program outside of their neighborhood school that they believe will better serve their child. Families of children with disabilities have the opportunity, as do families of children without disabilities, to complete a change of venue request to attend a different school other than their neighborhood school.
- Families who asked administration not to move their child back to their neighborhood school because the current assigned location is making a positive difference.

A summary table of the 31 student placements shows:



Two years ago, when SEAC brought to our attention the concern of receiving a letter in the summer noting an assigned school location change, the Department of Special Education worked to alter that process as evidenced by the attached checklist that was provided to SEAC. Feedback from parents involved in moving assigned school locations have been overwhelmingly positive since this change. We will continue to meet with each family impacted who wishes to meet about their concerns regarding a change in assigned school location. In fact, a member of the SEAC was one of those families and shared her positive experience with SEAC in working with the Special Education Team towards a resolution.

We firmly believe that our current process does align with the ACPS Mission: “Working together as a team, we will end the predictive value of race, class, gender, and special

capacities for our children's success through high-quality teaching and learning for all. We seek to build relationships with families and communities to ensure that every student succeeds." A student is able to succeed in the assigned school location in which their required I.E.P. can be implemented.

Family engagement is very important to us and we want to do everything in our power to find the most effective services (including location) for the students and families.

### **3. Provide Increased Support for Inclusion.**

The precedent for inclusive education was set in the Least Restrictive Environment (LRE) clause of Public Law 94-142, originally passed by Congress in 1975. The most recent version of this law, known as the Individuals with Disabilities Education Act (IDEA), was enacted in 2004. Countless research demonstrates that an inclusive learning community is beneficial for both students with and without disabilities. Participation in inclusive schools and communities also provides students, with and without disabilities, the experience of a society that values and includes all of its citizens. Inclusion is a civil rights issue.

Under the IDEA, each state must develop a State Performance Plan and publish an annual report that evaluates their implementation. The percentage of time students with disabilities are included in mainstream classrooms for 80% or more of their day in General Education is known as indicator "5A" for the Least Restrictive Environment (LRE). In 2019, ACPS met this state target.

However, there are several other factors that characterize an inclusive school that the federal government does not currently require states to report. These characteristics include: co-teaching and collaboration between Special and General Education teachers, students receiving services in their neighborhood schools, and a shared understanding of what inclusion means for the entire school system.

We have heard from educators within Special Education that they struggle to receive the resources they need in order to ensure their students succeed. As a result, they are spending large amounts of time trying to gain access to the General Education Curriculum and materials needed to effectively teach their students. One particularly concerning example that was shared involved the New Teacher Academy in August of 2022. There was a general feeling that Special Education was not included during the workshops/training and that questions regarding the General Education Curriculum "did not apply to you" if you were a teacher in Special Education. We've heard of an overall feeling that there's a division between "General Education" and "Special Education," as opposed to an integrated view of Inclusive Education. Additionally, while the Culturally Responsive Teaching platform is wonderful, we hear from teachers that these practices are not being extended into our Special Education Community appropriately and leave much to be desired in terms of equity for children with disabilities. We are aware this is the first year that VDOE has required individual school districts to create and submit an Inclusion Action Plan. We just learned this plan was submitted and approved during the school board meeting on November

10, 2022. We look forward to learning how this plan will be shared and implemented across the division.

Importantly, there are schools within the division doing an excellent job of inclusion - schools in which collaboration between teachers and support staff in Special Education and General Education is happening either organically or under individual school leadership. There are examples of how Special Education Teachers are parallel teaching large classes with General Education Teachers ensuring success for all students. There are also beautiful stories of how our children with disabilities are impacting their school communities, how their unique skill sets are valued, and how families are embraced with acceptance. These efforts appear to be initiated from the 'ground up' as opposed to the 'top down.' We respectfully request that more emphasis and direction be placed on a whole division view of inclusion and how best to support our teachers and support staff striving for this each day.

### **ACPS Response to Concern 3 (Inclusion):**

**The ACPS Office of Special Education and the ACPS Office of Student Learning believe that all special education students should be included in their least restrictive environment and it is part of our continuous effort and growth to provide professional learning for all educators that will facilitate that belief. While SEAC asserts above that Culturally Responsive Teaching (CRT) is not being extended into the special education community, we believe, as CRT credentialed leaders, that we are all working on the same mission. As the Director of Special Education, I completed CRT Micro-Credential Process last year which provided me direct experience and knowledge that supports this fact. The Office of Special Education has a common goal this school year; to end the predictive practice of disproportionately identifying Black students in the Intellectual Disability category by the end of this school year. This goal is deeply rooted in the Culturally Responsive approach and is at the heart of serving all students with disabilities in the most effective manner. CRT is the foundation upon which effective educational programming for students with disabilities is built.**

**SEAC asserts that a "top down" approach be implemented in the division with regards to inclusion. The Office of Special Education chooses to partner/collaborate with each school and with many departments such as the Office of Community Engagement and Equity, Building Services, Office of Instruction, etc. to foster a division that embraces the inclusion of all learners and families. The VDOE Inclusion Survey for ACPS indicates that choice by highlighting the strengths already in place, areas to build upon/focus, and action steps to take in moving the division forward.**

**In addition to the work that we do within the Office of Special Education to provide ongoing professional learning opportunities for the special education staff, ACPS offered approximately 73 sessions at our annual Making Connections Day that provided all teachers with ways to differentiate the curriculum to include all students. In June of 2022, the annual CAI Institute provided approximately 150 teachers and 75 building level leaders with ways to include all students in classrooms to support grade level learning outcomes**

for all students. In addition all teachers in K-5 have received professional development around Being A Reader and Making Meaning. These opportunities and resources provide many suggestions for differentiating instruction.

#### **4. Increase Teacher and Support Staff Recruitment and Retention**

Stress and burnout are amplified when an individual must work harder to gain the resources to include their students with disabilities. Hopelessness can occur when individuals feel that they are not a valued member of an equitable team. We hear from our teachers that the gap between advantaged and disadvantaged students is growing. Teachers feel that they are not equipped with the intervention specialists or support staff necessary to appropriately co-teach and implement IEPs. Special Education Teachers are being directed to “make base decisions about services based on staffing,” which results in student placement being based on staff availability rather than the needs of the student. All of this is alarming and underscores the importance of communication with the teachers and support staff who tirelessly dedicate their time and passion to supporting our children with disabilities. Each day they see the overwhelming potential in our children and do their best to help them achieve it! ACPS employees are their greatest strength.

We respectfully request that the challenges specific to navigating the educational system for children with disabilities be taken into account when continuing to recruit and retain teachers and support staff within Special Education.

#### **ACPS Response to Concern 4 (Recruitment/Retention):**

ACPS acknowledges the degree of stress and burnout among all educators, special education and general education, is high. The Office of Special Education continues to encourage collective teacher efficacy. We are better when we work and learn together. In support of that belief, the Office of Special Education provides support, collaboration and ideas to school based staff that encourage I.E.P. teams to develop and propose an I.E.P. based on what the student requires in order to make meaningful progress in light of their unique circumstances. SEAC asserts that IEP teams are told to “make decisions about services based on staffing.” It is never our intent to make any IEP decisions based on staffing

Instead, IEP teams are specifically advised that the regulations require an IEP team to develop a required, appropriate IEP without considering any other factors such as staff or assigned school location. Once the IEP is agreed upon, the school team consults with the Office of Special Education if there is a concern about how to implement the IEP given the current circumstances.

SEAC also asserts that the challenges specific to navigating the educational system for children with disabilities be taken into account with regards to recruitment and retention. ACPS is doing just that currently. At the School Board Meeting on December 8, 2022, an example of this was beautifully shared where 8 - 10 teaching assistants working at AHS are starting the path to become Special Education Teachers. In addition, Human Resources and the Office of Special Education have partnered to hold interest meetings with any



instructional staff member who is interested in adding a Special Education endorsement to their licensure or any support staff member who is interested in pursuing special education licensure. The Office of Special Education also partners with Human Resources in the efforts to recruit hard to fill positions as well as widespread posting of available positions. The Director of Special Education currently collaborates with Virginia Universities / Colleges that have Special Education Teacher Preparatory Programs to recruit future special educators. An example of this work can be seen in our work to fill a most hard to fill position; School Psychologist. ACPS implemented a School Psychologist Intern Program 5 years ago that has allowed us to hire interns as full time School Psychologists upon completion of their program. This has led to ACPS being one of the few Virginia school divisions without significant vacancies in School Psychologists.

Albemarle County Public Schools recognizes the unique challenges each child and family faces within a public schools system to have their child's needs met and dreams come to fruition as well as the strengths each possesses that lead to the success of the student and the improvement of our programs. We share common ground in our (Office of Special Education and SEAC) work together in our school communities - the education of all children, but for us, even more so for children with disabilities. We will continue to partner with families to improve our services as we believe continuous improvement is a process versus a destination.

*This report was compiled, confidentially, as a collective voice of the 2022-2023 SEAC of ACPS. Of note, bringing these concerns forth is challenging for our community as ultimately the placement and services of our children with disabilities is decided by the same individuals that read this report.*

*We appreciate the opportunity to continue to advise the Superintendent and School Board of the unique challenges that our Special Education Community faces. We appreciate the continued support and collaboration of the Special Education Department of ACPS and look forward to continuing positive changes.*

We are all stronger together.