

Brain Injury Association of Virginia

Virginia Alliance of Brain Injury Service Providers

2021 Legislative Needs Statement

WHAT:

Requires the Board of Education to amend its regulatory definition of "traumatic brain injury," for the purpose of the provision of special education for children with disabilities, to include "an acquired injury to the brain caused by a medical condition, including stroke, anoxia, infectious disease, aneurysm, brain tumors, and neurological insults resulting from medical or surgical treatments."

PATRON AND BILL NUMBER: Del. Tony Wilt; HB2182

WHY:

- The current regulatory definition of "traumatic brain injury" includes only those injuries caused by an external physical force.
- Data tells us over the last ten years, the number of children admitted annually into a Virginia hospital for a diagnosis related to traumatic brain injury is at least 300 and upward of 400. Yet in 2018, there were slightly more than 400 identified by DOE in the whole state as receiving Special Education services with a TBI classification. Something's not adding up, if we're adding that many kids a year to the overall total.
- Federal regulations define disability categories and criteria for special education eligibility. Although states may further define categories and criteria, Virginia has chosen to mimic the federal definition, thereby limiting access to proper identification for special education.
- 6 other states (Colorado, New York, North Carolina, Ohio, Oregon, Vermont) have modified their definition and/or identified credible evidence criteria to determine eligibility for services related to a child's brain injury.
- Inappropriate classification and/or eligibility determinations can result in students not receiving services they need, or receiving services they do not need. Pediatric case managers in our community based brain injury programs tells us the definition and services issue is problematic for many of the children and families they serve.
- A Joint Legislative and Audit Review Commission report issued in December of 2020 found "enrollment in special education varies across Virginia school divisions, both overall and by disability, and insufficient guidance and vague terms in the state's eligibility criteria likely contribute to this variation."
- The report recommended eligibility criteria be more clearly defined and explained by VDOE. As DOE will need to address this recommendation, this would be the exact time to address this issue.