

1999 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 650

Memorializing the Congress of the United States to reconsider federal restrictions on discipline of certain students with disabilities.

Agreed to by the House of Delegates, February 8, 1999

Agreed to by the Senate, February 18, 1999

WHEREAS, the federal Individuals with Disabilities Education Act (IDEA) governs the delivery of education services to disabled students; and

WHEREAS, disabled students are entitled to "free and appropriate education," which includes special education and related services and requires the development and implementation of an individualized education plan; and

WHEREAS, procedural safeguards are provided to students with disabilities who have been identified as eligible for special education, including a variety of notice, hearing and appeals requirements; and

WHEREAS, the majority of students with disabilities behave well in school; and

WHEREAS, there are, however, some students with disabilities who have serious behavior problems, resulting in violence and disruption in the educational environment; and

WHEREAS, prior to the early 1990s, students with disabilities were subject to expulsion for the same infractions as other students if there was no causal connection between the student's behavior and the student's disability and the student was appropriately placed at the time of the misconduct; and

WHEREAS, in the first half of the decade, Virginia was in litigation with the federal Department of Education as a result of federal demands that the Commonwealth's plan for special education include a provision requiring continuation of educational services to students with disabilities upon expulsion from school attendance, even if the discipline resulted from behavior unrelated to the child's disability; and

WHEREAS, pursuant to the Individuals with Disabilities Education Act, federal funds are conditioned on compliance with federal law and regulations; and

WHEREAS, for several years, Virginia's grant funds under IDEA were in limbo because of the litigation; however, in 1996 the Fourth Circuit Court ruled in favor of Virginia; and

WHEREAS, after the Fourth Circuit Court decision, Congress amended IDEA during the reauthorization process to require continuation of services to expelled students with disabilities; and

WHEREAS, it has been Virginia's contention throughout this process that allowing students with disabilities to be exempt from the consequences of their actions is a policy which does not benefit the student with disabilities or the educational environment and is patently unfair to other students; and

WHEREAS, the school divisions in Virginia have continued to serve students with disabilities who have been expelled from school through a variety of methods, such as visiting teachers, distance learning, and alternative programs; and

WHEREAS, Virginia's school divisions are dedicated to providing quality education to students with disabilities while maintaining good discipline and an atmosphere conducive to learning; and

WHEREAS, the Commonwealth would like to have a policy which provides uniform sanctions for violent students; however, federal law prevents the application of standardized disciplinary penalties; and

WHEREAS, the public schools throughout the nation are seeking to develop mechanisms to prevent the outbreaks of violence, particularly incidences of shootings; and

WHEREAS, the Commonwealth's education community believes that Congress should examine the consequences of its mandate to continue educational services to expelled students in terms of fairness to all students, school safety for all students and the maintenance of a positive educational atmosphere; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Congress of the United States be urged to reconsider federal restrictions on discipline of certain students with disabilities; and, be it

RESOLVED FURTHER, That the Clerk of the House of Delegates transmit copies of this resolution to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of the Virginia Congressional Delegation so that they may be apprised of the sense of the General Assembly of Virginia in this matter.

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