

EXHIBIT 1



Commonwealth of Virginia

GENERAL ASSEMBLY

RICHMOND

November 20, 2024

VIA ECF

The Honorable Judge John A. Gibney, Jr.
Spottswood W. Robinson III and
Robert R. Merhige, Jr., Federal Courthouse
701 East Broad Street
Richmond, VA 23219

Re: *United States v. Commonwealth of Virginia*, No. 3:12-cv-059

To the Honorable Judge John Gibney, Jr.:

We are bipartisan leaders of the Appropriations Committee of the Virginia House of Delegates (the “House Committee”) and the Finance and Appropriations Committee of the Virginia State Senate (the “Senate Committee”). Delegate Luke E. Torian (D – 24th District) is the current Chairman of the House Committee. Delegate Terry L. Austin (R – 37th District) is the current ranking member. Senator Louise Lucas (D – 18th District) is the current Chair of the Senate Committee and Senator Ryan McDougle (R – 26th District) is the current ranking member.

The General Assembly holds exclusive authority to appropriate new funds under the Virginia Constitution, and the Constitution imposes a strict requirement that “no such appropriation shall be made which is payable more than two years and six months after the end of the session of the General Assembly at which the law is enacted authorizing the same.” Va. Const, Art. X § 7. That provision creates two distinct limitations relevant here: first, the Commonwealth cannot subvert the legislative process by imposing on the General Assembly an obligation to appropriate funds¹ and, second, the General Assembly cannot bind future legislatures by guaranteeing that future funds will be appropriated beyond the constitutional durational limits.

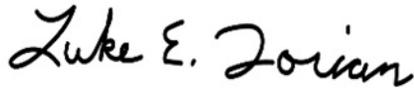
Our appropriation authority confers on us a responsibility to use the biennial budget process to address the needs of the Commonwealth as they arise. And throughout our tenures in the House and Senate, we have worked with the Commonwealth to invest significant resources to help Virginians with intellectual and developmental disabilities. We are proud of our progress and our track record of reaching bipartisan consensus to ensure that Virginians with intellectual and developmental disabilities receive the help they need. Last year, our budget included an investment of over \$274 million in additional resources to help those with developmental disabilities. We will not waver in our commitment to these Virginians, and in future years will continue working with the Commonwealth, our communities, and other stakeholders to ensure that we can continue building on the progress that the Commonwealth has already made.

¹ This understanding is confirmed by a 2010 Attorney General Opinion that observed that under Virginia law, “whether the Governor can provide an ‘assurance’ of future funding levels depends upon what the assurance requires. The Governor cannot by making such an ‘assurance’ bind the legislature, a separate branch of Government that is given ultimate authority over the budget. To the extent such an ‘assurance’ constitutes a political rather than a legal pledge by the Governor to engage himself to make his best efforts to maintain education spending at a certain level, the Governor is free to make such a political commitment.” See Va. Op. Att’y Gen. No. 10-082 (Oct. 1, 2010), <https://www.oag.state.va.us/files/Opinions/2010/10-082-Marshall.pdf>.

But as we mentioned in our January 16, 2024 letter to the Court, we remain concerned that contempt penalties—or even the threat of contempt—will divert legislative attention and resources from our efforts to meet the needs of Virginians with intellectual and developmental disabilities. Limiting our committees’ flexibility to consider how we can help those Virginians the most, including how we can most effectively allocate resources devoted to these efforts, will only hinder our efforts in the years ahead.

As leaders on the House Committee and Senate Committee, we will continue working hard to ensure that the General Assembly and the Commonwealth build on the tremendous progress to date. We are confident that our fellow committee members, both Democratic and Republican, agree. And we look forward to working with the General Assembly and the Commonwealth to ensure ongoing support and appropriate resources are available for the Commonwealth’s efforts to guarantee services and support for Virginians with intellectual and developmental disabilities.

Respectfully,



Delegate Luke E. Torian (Chairman)
D – 24th District

Delegate Terry L. Austin
R – 37th District



Senator L. Louise Lucas (Chair)
D – 18th District

Senator Ryan T. McDougale
R – 26th District