



**Final Interagency Guidelines on
Foster Care Services for Specific “Children in Need of Services”
Funded through the Comprehensive Services Act (CSA)**

Effective December 3, 2007

Revised; effective July 1, 2008

Statutory mandate to provide foster care services to “children in need of services”

State law mandates the provision of foster care services through the Comprehensive Services Act (CSA) state pool of funds (§2.2-5211C subdivision B3). Two types of children and their families are eligible to receive foster care services (§63.2-905):

- Children who are “abused or neglected” as defined in §63.2-100; and
- “Children in need of services” as defined in §16.1-228.

There are three separate and distinct situations when these children and their families are provided mandated foster care services (§63.2-905). The children:

- Have been identified as needing services to prevent or eliminate the need for foster care placements; or
- Have been placed through an agreement between the parents or legal guardians and the local department of social services (LDSS) or the public agency designated by the Community Policy and Management Team (CPMT) where legal custody remains with the parents or guardians; or
- Have been committed or entrusted to a LDSS or licensed child placing agency by the court.

Purpose of guidelines; Children for whom guidelines apply

This document proposes interagency guidelines on the provision of foster care services mandated through CSA for “children in need of services” and their families in the first two situations. Specifically, the guidelines apply when “children in need of services:”

- Remain in their homes and have been identified as needing services to prevent or eliminate the need for foster care placements; or
- Have been placed outside of their homes through an agreement between the parents or legal guardians and the LDSS or the public agency designated by the CPMT where legal custody remains with the parents or legal guardians.

Parents or legal guardians do not have to relinquish custody of their children in order to obtain necessary services.

Children for whom guidelines do not apply

This document does not address, nor propose any changes in policy, for the children listed below. Please refer to current law and policies regarding services for these children. Unless children meet the eligibility criteria as outlined in these guidelines, the proposed guidelines do not apply. For children who fit multiple categories, their circumstances should be considered individually to

determine the most appropriate route for services. Thus, these guidelines do not apply to children who are solely:

- “Children in need of services” and who meet the third statutory situation above. Specifically, children who are in “foster care” through commitment or entrustment to a LDSS or licensed child placing agency by the court.
- Children who are abused or neglected, as defined in §63.2-100, and receive foster care services, including:
 - foster care prevention services as described in CSA and VDSS policy (*VDSS will update Appendix H of the CSA manual to reflect that the six month limitation and extensions are no longer required*),
 - services to children who have been committed or entrusted to the LDSS or licensed child placing agency by the court (*including children placed in the care and custody of LDSS through a “relief of care and custody” petition granted by the court*);
 - placement through a noncustodial agreement between the LDSS and the parent or legal guardian who retain legal custody.
- Children in need of supervision, delinquents, or truants referred by the court.
- Children who are eligible for special education services through CSA (§2.2-5211C subdivisions B1 and B2.)
- Children who are eligible for nonmandated services through CSA, as identified in the CSA target populations (§2.2-5211C subdivisions B4 and B5). These children are:
 - “Placed by a juvenile and domestic relations district court, in accordance with the provisions of §16.1-286, in a private or locally operated public facility or nonresidential program, or in a community or facility-based treatment program in accordance with the provisions of subsections B or C of §16.1-284.1; and
 - “Committed to the Department of Juvenile Justice and placed by it in a private home or in a public or private facility in accordance with §66-14.”
- “Children in need of services,” children with mental health needs, or children who need residential care who do not otherwise meet the eligibility guidelines in this document.

Proposed eligibility criteria

The Family Assessment and Planning Team (*FAPT*), or approved alternative multi-disciplinary team, in accordance with the policies of the CPMT, determines and documents that there are sufficient facts that ***a child meets all four of the following criteria:***

1) The child meets the statutory definition of a “child in need of services” (§16.1-228).

Specifically, “the child’s behavior, conduct, or condition presents or results in a serious threat to the well being and physical safety of the child, or the well-being and physical safety of another person if the child is under the age of 14.”

This determination of facts shall be made in one of two ways:

- a. The FAPT and/or approved alternative multi-disciplinary team designated by the CPMT shall determine that the child’s behavior, conduct, or condition meets this specific statutory definition and is of sufficient duration, severity, disabling and/or self-destructive nature that the child requires services.
- b. A court finds that a child falls within these provisions, based on “(i) the conduct complained of must present a clear and substantial danger to the child’s life or health or to the life or health of another person, (ii) the child or his family is in need of treatment,

rehabilitation or services not presently being received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or services needed by the child or his family.” (§16.1-228)

2) *The child has emotional and/or behavior problems* where either:

a. the child’s problems:

- have persisted over a significant period of time or, though only in evidence for a short period of time, are of such a critical nature that intervention is warranted; and
- are significantly disabling and are present in several community settings, such as at home, in school or with peers; and
- require services or resources that are unavailable or inaccessible, or that are beyond the normal agency services or routine collaborative processes across agencies, or require coordinated interventions by at least two agencies.”

or

b. the child:

- is currently in, or at imminent risk of entering, purchased residential care; and
- requires services or resources that are beyond normal agency services or routine collaborative processes across agencies; and
- requires coordinated services by at least two agencies.”

3) *The child requires services:*

- a. to address and resolve the immediate crises that seriously threaten the well being and physical safety of the child or another person; and
- b. to preserve and/or strengthen the family while ensuring the safety of the child and other persons; and
- c. the child has been identified by the Team as needing:

- services to prevent or eliminate the need for foster care placement¹. Absent these prevention services, foster care is the planned arrangement for the child.

or

- placement outside of the home through an agreement between the public agency designated by the CPMT and the parents or legal guardians who retain legal custody. A discharge plan for the child to return home shall be included.

4) *The goal of the family is to maintain the child at home (for foster care prevention services) or return the child home as soon as appropriate (for parental agreements).*

Process for determining eligibility

The FAPT, or approved alternative multidisciplinary team, will determine eligibility relying on the expertise that each member brings to the team. The team is responsible for gathering, reviewing, and considering all relevant assessments. These assessments may include:

¹ Foster care placement is defined as “placement of a child through (i) an agreement between the parents or guardians and the local board or the public agency designated by the community policy and management team where legal custody remains with the parents or guardians or (ii) an entrustment or commitment of the child to the local board of licensed child-placing agency.” (§ 63.2-100)

- Child and family sharing their assessment of their strengths, needs, and potential natural and community resources available;
- Community Services Board (CSB) assessing serious threat and emotional and/or behavior problems through a standard screening tool;
- Department of Juvenile Justice (DJJ) assessing that the alleged facts support a finding of serious threat as a “child in need of services;”
- DSS determining reasonable candidacy (*i.e., child is at risk of entering foster care*);
- CSA implementing its uniform assessment instrument; and
- Other psychological, psychiatric, psychosocial, and/or educational evaluations.

The team may designate the CSB as responsible for summarizing and presenting to FAPT, or approved alternative multidisciplinary team, all relevant assessments when needed for a child who has significant mental health needs. The team will use the standard eligibility determination checklist (*Attachment A*) to help provide consistent application in determining eligibility across all agencies and communities.

To assist in eligibility determination with a specific child, the team may require a recent (*e.g., within 30 days*) independent clinical evaluation of the child and family to provide additional assessment information. This assessment may include child and family circumstances, history, strengths and needs of the child and family, the seriousness of the threat, and the services and supports the family currently is using or has available. The CPMT or FAPT may choose to use a licensed mental health professional designated by the community services board and/or another licensed mental health professional designated by the CPMT for clinical evaluations.

Proposed services for “children in need of services” eligible for foster care services

Services for “children in need of services” and their families should be provided through a collaborative system of care that is child-centered, family-focused and community-based (§2.2-5200). The CPMT should use established policies and procedures, including:

- referrals and reviews by the FAPT or approved multi-disciplinary team;
- immediate access to CSA state pool funds for emergency services; and
- utilization management of services (§2.2-5206).

The team should engage families in participating in all aspects of assessment, planning and implementation of services (§2.2-5208). Services may include a full range of casework, treatment and community services for a planned period of time (§63.2-905).

The team and family should assess the strengths and needs of the child and family (§2.2-5208) before exploring service options. They should then collaboratively design the complement of services and supports required to meet the unique needs of the child and family (§2.2-5208), building upon the strengths, resources and natural supports of the child and family. Teams should strive to preserve and strengthen families and provide appropriate services in the least restrictive environment that protect the welfare of children and maintain public safety (§2.2-5200). Services may be provided directly, provided through referral to other community resources, or purchased through approved providers. The duration of services should be for a planned period of time based on the needs of the youth and family. Services must be documented in the Individual Family Services Plan (*IFSP*).

The FAPT or approved multidisciplinary team, in collaboration with the family, develops an IFSP that provides the complement of services and supports tailored to the strengths and needs of the child and family (§2.2-5208). They determine the most appropriate, least restrictive, cost effective services for the child and family which accomplish the following purposes:

- resolves the immediate crises that seriously threaten the well being and physical safety of the child or another person; and
- preserves, stabilizes and strengthens the family situation so the child may live in the home; and
- these services are provided either:
 - in the home to prevent or eliminate foster care placement (*no parental agreement is required*) ; or
 - outside of the home in a group or residential setting through an agreement between the public agency designated by the CPMT and the legal guardian who retains legal custody (*a parental agreement is required*).

Placements outside of the home

If community services and supports have been explored and determined not to be in the best interest nor meet the needs of the child, the team collaboratively with the family should explore placements outside of the home with extended family. They shall then explore placements in family-like homes or group or residential settings to serve the child if these are the most appropriate and least restrictive services. Before placing the child across jurisdictional lines, the team shall:

- explore all appropriate community services for the child;
- document that no appropriate placement is available in the locality; and
- report the rationale for the placement decision to the CPMT (§2.2-5211.1.2).

For all children placed out-of-state using CSA funds, the team shall follow the requirements of the Virginia Interstate Compact for the Placement of Children (http://www.dss.virginia.gov/family/interstate_res.html).

When the FAPT, or approved multidisciplinary team, and the legal guardian agree on an out-of-home placement that is the most appropriate and least restrictive service, the local public agency designated by the CPMT and the legal guardian must enter into an agreement. This agreement requires the legal guardian who retains custody to agree to place the child and the CPMT to agree to provide funding in accordance with the CPMT's policies and procedures. A discharge plan for returning the child home as quickly as appropriate must be included as part of the IFSP.

The public agency designated by the CPMT and the legal guardian shall develop an agreement that provides for:

- Family participation in all aspects of assessment, planning and implementation of services;
- Services to be provided as delineated in the individual family services plan;
- Payments to cover the cost of care by the family, their private health insurance, public or private agency resources, and CSA state pool funds;
- Legal guardian applying for Medicaid, FAMIS, and/or other public or private resources if it may assist in funding services;
- Provisions for utilization management of the care provided;
- Provisions for resolving disputes regarding placements; and
- Conditions and method for termination of the agreement.

An updated standard template for CSA Parental Agreements is attached (*Attachment B*).

If disagreements arise over the appropriate placement of the child, the team and legal guardian should examine the reasons for the disagreement and explore alternatives for resolving the issues. The legal guardian has expertise on the strengths and needs of the child and family, while the team is responsible for identifying the most appropriate service options. Ultimately, it is the legal guardian's decision on whether to choose to accept the services developed with and recommended by the team. The CPMT has final authority for the expenditure of CSA funds that comply with federal and state requirements on services recommended by the team. Neither the legal guardian nor the CPMT is required to enter into an agreement if either party disagrees on the appropriate placement of the child. The FAPT or multi-disciplinary team shall provide the legal guardian information on the process for appealing recommendations by the FAPT as established through the CPMT's policies.

If a child is placed outside of the home and school division, the team shall notify the receiving school division if the child has disabilities to expedite enrollment and special education requirements, based on policies established by the CPMT (§2.2-5211.1.2). The team should also immediately begin implementing the discharge planning to return the child home as soon as it is safe and appropriate.

Case Management

The team, in adherence to CPMT policies, shall designate a person responsible for monitoring and reporting progress in implementing the IFSP to the team and responsible local agencies as appropriate (§2.2-5208). The team is responsible for providing family participation, developing a plan, referring the youth and family to services, and designating a person responsible for monitoring and reporting on progress (§2.2-5208).

Case management services may be provided by local departments of social services (*LDSS*) or another public agency designated by the CPMT.

- If a LDSS enters into an agreement with the legal guardian to place the child outside of the home in “24 hour substitute care”, the LDSS is the case manager with “placement and care” responsibility for the child, and the legal guardian retains custody, the child is considered “in foster care” by the federal government and all federal and state requirements must be met (45 C.F.R. §1355.20; see *Virginia Department of Social Services Foster Care Policy Manual at <http://www.dss.state.va.us> under “Children”, “Foster Care”*). VDSS’ approved Non Custodial Foster Care Agreement (*the updated form may be found at <http://spark.dss.virginia.gov/divisions/dgs/warehouse.cgi>*) is used. Federal IV-E funds can only be claimed if LDSS has placement and care responsibility and the child is determined to be Title IV-E eligible by the LDSS.
- If another public agency designated by the CPMT enters into an agreement where the legal guardian agrees to place the child outside of the home, this public agency has case management responsibility for the child, and the legal guardian retains custody, the child is not considered “in foster care.” No federal foster care requirements apply. The attached CSA Parental Agreement template is used. Federal Title IV-E funds may not be used to pay for any maintenance or administrative costs (*e.g., room and board, day care, transportation for visits with family, and payment for case management*).

Pooling resources to fund services and supports

The team, or entity determined by the CPMT, shall explore all available family, community, private insurance, and public resources that may assist in funding the services and supports in the IFSP. CSA statute requires that the LDSS, local school division, CSB, court service unit and DJJ shall continue to be responsible for providing services identified in the IFSP that are within the agency's scope of responsibility and that are funded separately from the state pool (§2.2-5211D).

All efforts should be made to maximize and pool resources across agencies and sectors. The CPMT shall use Medicaid funds whenever available for appropriate CSA services for the child and family (*Appropriation Act #279E*). The team shall use the process established by the CPMT to assess the ability, and provide for, appropriate financial contributions to the cost of services by the parents or guardian, using a standard sliding fee scale based upon ability to pay (§2.2-5208.5).

After assessing all appropriate federal, state, private and community resources, the team shall recommend to the CPMT expenditures from the local allocation of the state pool of funds (§2.2-5208). The CPMT shall use established policies and processes for authorizing and monitoring the team's requests for funding (§2.2-5206).

Utilization management

Ongoing utilization management (§2.2-2648.D15) shall be conducted to assess the effectiveness and appropriateness of foster care services based on the plan established by the CPMT following guidelines of the State Executive Council. Frequency of reviews should be based on the strengths and needs of the individual child and family and the restrictiveness of the services. Children who require intensive and/or restrictive services should be reviewed frequently.

Due process protections

The policies and procedures of the CPMT's due process system for CSA, including appeals, are applicable to children and families eligible for services and supports under these guidelines. The Comprehensive Services Act Manual (*Section 3.6*) requires each CPMT to establish a local due process system that has the following minimum parameters:

- Notice to families at point of entry to FAPTs;
- Opportunity for the family/child to be heard and communicate their position; and
- Timelines for the review of requests and CPMT responses.

This review process system shall not take the place of any other review process pursuant to existing state or federal law (*e.g., special education, foster care, and the courts*).