

SEC POLICY 4.7

RESPONSE TO AUDIT FINDINGS WITH REGARD TO THE CHILDREN'S SERVICES ACT

4.7.1 PURPOSE

To provide guidance to the Office of Children's Services (OCS) and improve consistency and transparency for localities when the OCS Executive Director is carrying out his or her duties under the State Executive Council for Children's Services (SEC) Policy 4.6 (Denial of Funds) in responding to OCS audit noncompliance findings by local Children's Services Act (CSA) programs.

4.7.2 AUTHORITY

Section 2.2-2648 of the *Code of Virginia* authorizes the SEC, paraphrased in relevant part, to do the following:

- (i) Establish interagency programmatic and fiscal policies which support the purposes of CSA (subdivision D (3))
- (ii) Provide for dispute resolution procedures for administrative actions that support the purposes of the CSA (subdivision D (4));
- (iii) Provide for the administration of necessary functions that support the work of the OCS (subdivision D (6));
- (iv) Establish and oversee the operation of an informal review and negotiation process with the OCS Executive Director and a formal dispute resolution procedure before the SEC, to include formal notice and an appeals process, should the Executive Director or SEC find, upon a formal written finding, that a community policy and management team (CPMT) failed to comply with any provision of CSA (subdivision D (19)); and
- (v) Deny state funding to a locality, in accordance with (iv) in this section, where the CPMT fails to provide services that comply with CSA and other applicable statutes or policies (subdivision D (20)).

Section 2.2-2649 of the *Code of Virginia* authorizes the OCS to:

- (i) Develop and provide for the consistent oversight for program administration and compliance with state policies and procedures (subdivision B (3));
- (ii) Provide an informal review and negotiation process pursuant to § 2.2-2648 D (19); and
- (iii) Implement, in collaboration with participating state agencies, policies, guidelines and procedures adopted by the State Executive Council (subdivision B (7)).

4.7.3 DEFINITIONS

“*Audit*” means a review by OCS employees of a local CSA program’s policies, procedures, and practices through interview, observation, and the review of documentation to determine compliance, in whole or in part, with the requirements of a state or federal laws and regulations, including the applicable Appropriation Act provisions, or policies promulgated by the SEC or the participating agencies of the CSA, that govern or direct the operations of local CSA programs.

“*Audit periodcycle*” means the three-year period in which OCS conducts routinely scheduled audits of all localities in the Commonwealth.

“*Case specific finding*” means a noncompliance finding emerging from an expenditure of CSA state pool funds for an individual child and/or family.

“*Noncompliance finding*” means a finding made by the Executive Director of the Office of Children’s Services that a CPMT, in its implementation of the CSA program, has not complied with the provisions of the Children’s Services Act (§§ 2.2-5200 et seq.), the policies of the State Executive Council, any state or federal law pertaining to the provision of services pursuant to the CSA, the applicable provisions of the Appropriation Act, or any policies promulgated by the participating state agencies (as identified in § 2.2-2648(B)) pertaining to the services funded pursuant to the CSA. There are three levels of noncompliance findings as outlined herein. A finding of non-compliance shall provide the basis for the “formal written finding as described in § 2.2-2648 (D) (19).”

“*Participating agencies*” means any of the child-serving agencies required by § 2.2-5205 to serve on the Community Policy and Management Team and to implement the CSA in a locality.

“*Repeat or subsequent violation*” means a locality, in two successive audit periodscycles, violates the same policy, regulatory, or statutory requirement (e.g., failure to complete the CANS assessment). Repeat or subsequent findings may occur on the next regularly scheduled audit or on any occasion on which follow-up monitoring of previously agreed upon corrective action occurs.

4.7.4 NONCOMPLIANCE LEVEL FINDINGS

The subsection delineates three levels of noncompliance findings as defined above. The parameters and examples provided in each level are not exhaustive but illustrative and shall guide OCS in determining into which level any noncompliance finding is categorized based on the noncompliance finding’s similarity to the general parameters and specific examples provided below.

4.7.4.1 Level Three Noncompliance Finding

- A. *General Parameters*: Audit findings in this category are case specific and occur when CSA state pool funds have been reimbursed when the expenditure is not authorized by statute, regulation, or policy.

B. *Examples of Level Three Specific Noncompliance Findings:*

1. The child and/or family are ineligible for CSA funding per §§ 2.2-5211 and 2.2-5212 of the *Code of Virginia* or documentation of eligibility (e.g., an Individualized Education Program [IEP] or a Child in Need of Services [CHINS] eligibility determination) was not available for review during the audit.
2. Use of CSA funding for services for which another appropriate federal or state funding source was available.
3. Medicaid funding was not sought and/or denial of Medicaid funding was not documented despite the service being reimbursable by Medicaid and the child is covered under Medicaid, in accordance with Item 285, section D. of the Appropriation Act.
4. Services were not recommended by a Family Assessment or Planning Team (FAPT) or Multidisciplinary Team (MDT) in accordance with § 2.2-5208 (8) and/or an Individual and Family Service Plan (IFSP) was not developed, except where a local CPMT policy allows such expenditures to be exempt from FAPT or IFSP requirements (e.g., "maintenance only" foster care or IEP-mandated placements) in accordance with § 2.2-5208 (4).
5. The funding of services was not authorized by the CPMT as required by § 2.2-5206 (9).
6. Violations of statutes, regulations, or policies of the participating agencies in the provision of services, such as:
 - a. Payment for Enhanced Foster Care Maintenance when the Virginia Department of Social Services' (VDSS) Virginia Enhanced Maintenance Assessment Tool (VEMAT) policy was not followed;
 - b. Title IV-E funding was denied due to error; or
 - c. The local DSS used an unapproved/unlicensed foster home placement.
7. Services were within the scope of responsibility of another agency as specified in the statutes, regulations, policies, and/or guidance of a participating agency (e.g., services to students with disabilities provided in the public school setting; administrative costs of a local DSS such as paternity testing, routine drug screening of biological parents where the VDSS has allocated funds for that purpose, or legal services related to prosecuting child abuse and neglect; case management by a local DSS for youth committed to the Department of Juvenile Justice (DJJ));
8. The service provider did not meet licensing requirements for the specific service (e.g., behavioral health providers or other providers [LCPA, day care] requiring licensure by VDSS).
9. The use of a non-Medicaid provider, when the child and/or family were Medicaid eligible, and there is no substantiation that a Medicaid provider was unavailable or inappropriate in accordance with Item 285, section D. of the Appropriation Act.
10. Failure to refund to CSA recoveries made against previously claimed costs (e.g., child support collections, Title IV-E recoveries, [SSI](#), or retroactive Medicaid payments for services).
11. Failure to correct erroneous expenditure reports that require adjustments to CSA match rate categories.

Adopted: [December 14, 2017](#)

Effective: *DATE*

Revised: N/A

Page 3 of 6

12. Claiming reimbursement for expenditures after September 30 which were incurred in the previous fiscal year in violation of SEC Policy 4.5.2.

4.7.4.2 Level Two Noncompliance Finding

- A. *General Parameters:* Findings in this category are case specific and involve a violation of an applicable statute, regulation, or policy but, had the requirements been followed, would have been eligible for reimbursement through state pool funds. Findings may be mitigated by corrective action already implemented on a case-specific basis (e.g., FAPT or CPMT action was not timely made but was taken in a reasonable time thereafter).
- B. *Examples of Specific Level Two Noncompliance Findings:*
 1. Assessments with the mandatory uniform assessment instrument (i.e., CANS) are not completed in accordance with § 2.2-2648 (11), 2.2-5212 (A), and SEC Policy 3.6.
 2. The CPMT did not have the child-specific documentation required under SEC Policy 3.5 (Records Management) or to demonstrate eligibility for CSA funded services per § 2.2-5212 and/or SEC Policy 4.1.
 3. There was missing, incomplete, or inaccurate financial documentation (e.g., purchase orders, invoices, or vendor contracts) but enough documentation to determine that the service was eligible for state pool fund reimbursement per SEC Policy 3.5 and Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).

4.7.4.3 Level One Noncompliance Finding

- A. *General Parameters:* Audit findings in this category are *not* case specific but represent failure to meet administrative and operational standards required statutory, regulatory, or policy requirements.
- B. *Examples of Specific Level One Noncompliance Findings:*
 1. The CPMT's policies and/or practices do not comply with § 2.2-5206 and Item 285 of the Appropriation Act.
 2. The CPMT does not have documentation of long-range community planning and utilization management activities per § 2.2-5206 (4).
 3. CMPT and FAPT membership does not meet statutory requirements per § 2.2-5205 and § 2.2-5207.
 4. Statements of Economic Interest for designated CPMT and FAPT members are not completed in compliance with § 2.2-5205 and § 2.2-5207.
 5. The CPMT's fiscal controls (e.g., separation of purchasing and payment authority) do not meet the Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).
 6. CSA-related information technology security controls (e.g., users sharing accounts or

passwords) do not meet Information Technology policy SEC-501 promulgated by the Virginia Information Technology Agency (VITA).

7. The locality failed to properly reconcile CSA reimbursement requests with other fiscal systems per Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).

4.7.5 REVIEW OF FINDINGS BY OCS

The OCS Executive Director shall review (i) the audit report; (ii) any response, including corrective actions and quality improvement plans from the locality, (iii) the recommendation of the auditor(s); and (iv) any OCS internal staff review prior to responding to the noncompliance finding. After such review, the OCS Executive Director shall issue a written response describing the findings made and action to be taken.

4.7.6 RESPONSES TO NONCOMPLIANCE FINDINGS

4.7.6.1 Response to Level Three Noncompliance Findings

The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the noncompliant state pool fund reimbursements upon the first and any ~~second or subsequent~~ repeat or subsequent Level Three Noncompliance Finding.

4.7.6.2 Response to Level Two Noncompliance Findings

A. *First Level Two Noncompliance Finding*: The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Level Two Noncompliance Finding.

B. ~~Second or Subsequent Repeat~~ Level Two Noncompliance Finding: The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the state pool funds on any ~~second-repeat~~ or subsequent Level Two Noncompliance Finding as follows:

(1) On ~~second~~ repeat or subsequent findings of noncompliance, state pool funds will be recovered in proportion to the percentage of the audit sample found to be noncompliant (i.e., if 20% of the number of cases in the audit sample are found non-compliant, recovery will be 20% of the total amount found in violation for that issue), with a minimum recovery of 10% of the amount of funds found as noncompliant.

(2) On a third ~~subsequent~~ repeat finding of noncompliance, state pool funds will be recovered at 100% of the amount found in noncompliance.

~~Subsequent findings may occur on the next regularly scheduled audit or on any occasion on which follow-up monitoring of previously agreed upon corrective action occurs.~~

4.7.6.3 Response to Level One Noncompliance Findings

Adopted: December 14, 2017

Effective: DATE

Revised: N/A

Page **5** of **6**

- A. *First Level One Noncompliance Finding*: The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Level One Noncompliance Finding.
- ~~B. *Repeat or subsequent Level One Noncompliance Finding*: The OCS Executive Director shall temporarily deny state pool fund reimbursements on any ~~second-repeat~~ or subsequent instance of a Level One Noncompliance finding until ~~the a~~ corrective action plan is submitted and implemented. (For noncompliance findings related to required membership on FAPT or CPMT, documentation of reasonable and ongoing efforts to meet the requirements will be considered as implementation of corrective action.) ~~Subsequent findings may occur on the next regularly scheduled audit or on any occasion on which follow-up monitoring of previously agreed upon corrective action occurs.~~~~
- C. *Corrective Action Plan Compliance*: Once a local CSA program is substantially in compliance with all applicable requirements of a Level One Noncompliance Finding resulting in suspension of state pool fund reimbursements, all funds will be retroactively released and new requests for reimbursement will be approved.

4.7.7 APPEAL OF OCS RESPONSE

The CPMT may appeal the findings and action taken by the Executive Director of OCS in accordance with SEC Policy 3.4 (Dispute Resolution Process).

4.7.8 ANNUAL REPORT TO THE STATE EXECUTIVE COUNCIL

The OCS Executive Director shall annually report to the SEC a summary of the year's audits, audit findings, and any remedial actions taken.

4.7.9 POLICY REVIEW

This policy will be subject to annual review by the SEC Finance and Audit Committee to determine whether there are necessary modifications that should be recommended to the findings in each Noncompliance Finding Level.