

AGENDA
State Executive Council for the Children's Services Act
September 15, 2016
Office of Children's Services
1604 Santa Rosa Road
Richmond, VA

- 9:00 a.m.** **Welcome and Chair Remarks – Dr. Bill Hazel**
- Introductions of New Members and Presentations of Certificates and Pins
 - **Action Item** – Approval of June 2016 Minutes
 - Update from the Chair
 - Critical Issues
 - Legislative Priorities
 - State Budget Status
 - CSA Presentation to the Senate Finance Committee – October 20
- 9:25** **Public Comment (General)**
- 9:35** **Amendments to SEC Bylaws**
- **Action Item** – Approve amended Bylaws
- 9:40** **Executive Director's Report – Scott Reiner**
- FY2016 Expenditure Status Update
 - Private Day Educational Placements (Chapter 780, Item 285 M (i))
 - Presentation of Options for SEC Consideration
 - Public Comment
 - **Action Item** – Approval of report to the Senate Finance and House Appropriations Committees
 - Educational Funding for Non-CSA Placements in Residential Treatment (Chapter 780, Item 285 M (ii))
 - Presentation of Options for SEC Consideration
 - Public Comment
 - **Action Item** – Approval of report to the Senate Finance and House Appropriations Committees
- 11:40** **SLAT Report – Dr. Tamara Temoney, Chair**
- Amended SLAT Bylaws
 - **Action Item** – Approve amended Bylaws

- Commission on Youth Request:: CSA Special Education Wraparound Funds
 - Options for SEC Consideration
 - Public Comment
- **Action Item** – Approval of report for the Commission on Youth

12:30

Discussion: The Role of the SEC

- Update on the Children's Cabinet – Dr. Daniela Lewy, Executive Director
- Member updates on children's related issues
- Role of the SEC in consideration of critical, cross-cutting children's services issues

1:30

Additional Member Updates

2:00

Adjourn

**** Note: Agenda times for specific items are approximate**

Remaining Meeting Schedule for 2016: December 15

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**STATE EXECUTIVE COUNCIL (SEC)
FOR CHILDREN'S SERVICES
Department of Taxation
1957 Westmoreland Street
Richmond, VA
Thursday, June 23, 2016**

SEC Members Present:

Pamela Kestner, Deputy Secretary of Health and Human Resources for the Honorable William A. (Bill) Hazel, Jr., M.D., Secretary of Health and Human Resources (*Chair*)
The Honorable Mary Biggs, Member, Montgomery County Board of Supervisors
Andrew Block, Director, Department of Juvenile Justice
Pat Haymes for Steven Staples, Ed.D., Superintendent of Public Instruction, Virginia Department of Education
Courtney Gaskins, Director of Program Services, Youth for Tomorrow
Bob Hicks for Dr. Marissa Levine, Commissioner, Virginia Department of Health
The Honorable Catherine Hudgins, Member, Fairfax County Board of Supervisors
Cindi Jones, Director, Department of Medical Assistance Services
Maurice Jones, City Manager, City of Charlottesville
Sandra Karison for Karl Hade, Executive Secretary of the Supreme Court of Virginia
Greg Peters, President and CEO, UMFS
Margaret Schultze, Commissioner, Virginia Department of Social Services
Jeanette Troyer, Parent Representative
The Honorable Jennifer Wexton, Member, Senate of Virginia
Eddie Worth, Parent Representative

SEC Members Absent:

Jack Barber, Interim Commissioner, Virginia Department of Behavioral Health and Developmental Services
The Honorable Richard "Dickie" Bell, Member, Virginia House of Delegates
The Honorable Robert "Rob" Coleman, Vice-Mayor, City of Newport News
The Honorable Anita Filson, Juvenile and Domestic Relations District Court Judge, 25th Judicial District

Other Staff/SLAT Members Present:

Anna Antell, Program Consultant, OCS
Ellen Melenke, Assistant Attorney General, Office of the Attorney General
Marsha Mucha, Administrative Staff Assistant, OCS
Scott Reiner, Executive Director, OCS
Kristi Schabo, Program Consultant, OCS

Call to Order and Approval of Minutes

Pam Kestner called the meeting to order at 9:30 a.m. and welcomed everyone. She expressed Dr. Hazel's apology that he could not be in attendance at today's meeting. She congratulated Scott Reiner on his selection as the new executive director of OCS. Ms. Kestner presented Mr. Worth with his SEC appointment certificate and pin.

The minutes of the March 17, 2016 meeting were approved on a motion by Greg Peters, seconded by Mary Biggs and carried.

Public Comments

There were no public comments.

Public Participation in SEC Policy Making

Mr. Reiner reported that the public comment period on the proposed policy ended May 23. A total of five comments were received. Members received a summary of the comments along with a marked-up version and final version of the policy. After a review of the comments by Mr. Reiner, the policy was approved on a motion by Mary Biggs, seconded by Greg Peters and carried.

Executive Director's Report

Mr. Reiner reported on the following items:

- Private Day Educational Placement and Educational Funding for Non-CSA Placement in Residential Treatment – Item 285#1c of the Appropriation Act directs the SEC to “develop a robust set of options for increasing the integration of children receiving special education day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining outcome data to assist in making decisions on the appropriate utilization of these services.” A workgroup of stakeholders is being convened to inform development of options to address this directive. Meetings will be held July 14, July 29 and August 24. Members were invited to participate in the meetings.

The SEC is also directed to continue its review, with the assistance of relevant stakeholders, the issue of funding of educational costs for non-CSA placements in residential treatment. Mr. Reiner explained that a report required pursuant to the 2015 Appropriation Act on this issue was the product of several workgroups that were tasked with examining the issue. Several recommendations were presented in the report but there were a number of recommendations where the workgroups could not reach consensus.

Mr. Reiner will redistribute all the recommendations and other relevant materials to SEC members for their review. At least one large meeting will be convened where public comment will be received. A set of recommendations will then be compiled for consideration by the SEC at their September meeting to include in the report to the General Assembly.

- FY16 Expenditure Status Update – Year-to-date expenditures for FY16 are 6 percent (\$15M) higher than FY15. The increase is primarily due to an increase in expenditures for special education private day placements (\$11M).
- FY16 Training Summary – Members were provided with a copy of the FY16 OCS Training Progress Report. Mr. Reiner noted that in FY16 over 1,400 people received training through OCS and that OCS has met all training requests that have been received.
- FY17 Training Plan – Members were provided a draft of the OCS Training Plan for FY17. The Plan had its first reading at the March 17 SEC meeting. The Plan was approved on a motion by Courtney Gaskins, seconded by Mary Biggs and carried.
- Plans for Distribution of Additional CSA Local Administrative Funds (\$500,000) - The additional funding will be distributed effective July1 based on the current funding allocation process.

SLAT Report

Ron Belay, Chair of SLAT reported on the following items:

- CSA Special Education Wraparound Funds – SLAT is currently working on the Commission on Youth (COY) request to examine issues related to use of the wraparound services for students with disabilities. This request was part of a larger two-year study by COY on the use of federal, state and local funds for private educational placements of students with disabilities.

Several surveys (general, schools and parents) were developed and distributed to gather information from stakeholders to utilize in informing the recommendations from SLAT to the SEC in response to the COY request. SLAT's August meeting (August 4, 2016) will be an open forum to gather additional input from stakeholders on the use of CSA special education wraparound funds.

- New SLAT Chair and Vice-Chair – At SLAT's June meeting Tamara Temoney, Hanover County DSS and Karen Reilly-Jones, Chesterfield/Colonial Heights CSA were elected as the new chair and vice-chair respectively for the fiscal year beginning July 1.
- New/re-nomination of SLAT Representatives – The following SLAT nominations were put forward for SEC approval:
 - CPMT –LDSS Representatives – Tamara Temoney and Rebecca Vinroot
 - CPMT – School Representatives – Angela Neely and Susan Aylor
 - Private Provider Representatives – Kellie Evans, Shannon Updike and Michael Triggs
 - Juvenile and Domestic Relations Court Representatives – the Honorable Frank Somerville and the Honorable Ashley Tunner
 - Parent Representative – Andelicia Neville

The nominations were approved on a motion by Maurice Jones, seconded by Cindi Jones and carried.

Report of the Finance and Audit Committee

Mary Biggs and Catherine Hudgins reported on behalf of the Committee. The Committee last met in April and will be developing guiding principles and specific decision making criteria for

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the OCS process by which administrative action pertaining to locally administered CSA programs are directed and managed by OCS. The Committee will provide oversight and “post” finding review of the executive director’s decisions.

It was also reported that there is a “disconnect” between CSA statute and the OCS Executive Director’s discretion to act on administrative actions. The Attorney General’s Office is reviewing this matter and will provide an official opinion to OCS.

Ms. Hudgins reported that the audit process is very open and transparent with a clear set of audit criteria. She noted that audits are available on the CSA website and she invited members to review them.

Report of the Outcomes Committee

Jeannette Troyer reported on behalf of the Committee. The Committee last met in April and discussed the potential collection of other pertinent data that would enhance the CSA outcomes measures. The Committee decided to work with DJJ on identifying CSA children/youth, under the age of 18, who exited the CSA system in 2015 and were subsequently arrested or rearrested within a one-year time period.

The Committee also received a presentation on the Virginia Longitudinal Data System (VLDS). OCS staff met with administrative staff of the VLDS and will be on-boarding with the system which will allow access to data (especially certain education data) housed in the VLDS.

Presentations

SEC members received two presentations:

- Private School Placements and the Special Education Continuum of Services by Angela Neely
- Therapeutic Day Treatment – Program Summary and Recommendations for the Future by Magellan of Virginia

Discussion: The Role of the SEC: Collective Impact

Ms. Kestner reported that Dr. Hazel would like to explore options for better organization and management of issues related to children including the role of the SEC and Children’s Cabinet. One consideration is the frequency/length of SEC meetings. Rather than increase the number of meetings, adjusting the length of time for meetings would provide an opportunity for more in-depth discussion and review of complicated topics/issues.

Ms. Kestner proposed increasing the meeting time for the September 15 meeting. SEC members concurred. The September 15 meeting will be held from 9:00 a.m. to 2:00 p.m. with lunch provided.

Next Meeting and Adjournment

There being no further business the meeting was adjourned at 11:50 a.m. The next meeting will be held September 15 in the Richmond/Henrico Rooms, 1604 Santa Rosa Road in Richmond.

CHILDREN'S SERVICES ACT (CSA) STATE EXECUTIVE COUNCIL BYLAWS

ARTICLE I: NAME

As authorized in § [2.2-2648.B](#) of the Code of Virginia, the name of this body shall be the State Executive Council, hereafter referred to as the Council.

ARTICLE II: PURPOSE

The purpose and objectives of the Council shall be to assure collaborative programmatic policy development, fiscal policy development and administrative oversight for the efficient and effective provision of child centered, family focused and community based services to eligible emotionally and behaviorally troubled children/youth and their families in the least restrictive, appropriate environment. Further, the Council assures the Governor and appropriate Cabinet Secretaries are well informed in matters related to the aforementioned areas.

ARTICLE III: MEMBERSHIP

Section 1

As set forth in § [2.2-2648.B](#) of the Code of Virginia, the members of the state executive council shall consist of one member of the House of Delegates to be appointed by the Speaker of the House and one member of the Senate to be appointed by the Senate Committee on Rules; the Commissioners of Health, of Behavioral Health and Developmental Services, and of Social Services; the Superintendent of Public Instruction; the Executive Secretary of the Virginia Supreme Court; the Director of the Department of Juvenile Justice; the Director of the Department of Medical Assistance Services; a juvenile and domestic relations district court judge, to be appointed by the Governor and serve as an ex officio nonvoting member; the chairman of the state and local advisory team established in § 2.2-5201; five local government representatives chosen from members of a county board of supervisors or a city council and a county administrator or city manager, to be appointed by the Governor; two private provider representatives from facilities that maintain membership in an association of providers for children's or family services and receives funding as authorized by the Children's Services Act (§ 2.2-5200 et seq.), to be appointed by the Governor, who may appoint from nominees recommended by the Virginia Coalition of Private Provider Associations; a representative who has previously received services through the Children's Services Act, to be appointed by the Governor with recommendations from entities including the Departments of Education and Social Services and the Virginia Chapter of the National Alliance on Mental Illness; and two parent representatives.

Section 2

The juvenile and domestic relations district court judge, local officials, private providers and parent representatives shall be appointed by the Governor. The member from the House of Delegates shall be appointed by the Speaker of the House and the member from the Senate by the Senate Committee on Rules. All Governor's appointments shall be for a term not to exceed three years and limited to no more than two consecutive terms, beginning with appointments after July 1, 2009. The parent representatives shall not be employees of any public or private program which serves children and families.

Section 3

State agency heads may designate their chief deputies as alternates, hereafter referred to as delegates, with full authority to speak on behalf of the agency head and to commit agency resources. Such delegation shall be accomplished in written format and provided to the Council Chair. Delegates shall not be members of the State and Local Advisory Team.

ARTICLE IV: ATTENDANCE

Members/delegates are expected to attend all regularly scheduled meetings of the Council.

In the event neither an agency head nor their chief deputy can attend the meeting, an alternate representative vested with the same decision-making authority, including the commitment of agency-wide resources, may be designated to represent the member for that meeting. The alternate may vote only with a written designation of the member/delegate. Alternates may not be members of the State and Local Advisory Team. The use of alternates is expected to be minimal.

ARTICLE V: MEETINGS

Section 1

Pursuant to § 2.2-2648 of the Code of Virginia, the council shall meet, at a minimum, quarterly.

Section 2

The Chair may convene special meetings with appropriate notification to all members.

Section 3

A quorum, consisting of ~~nine~~ ten of the ~~seventeen~~ nineteen voting members or their designated delegates/alternates shall be present to conduct any official business. Roberts Rules of Order shall guide the transaction of business. The members representing the House of Delegates and the Senate shall not be included for the purposes of constituting a quorum. In the event of a tie vote, the Chair shall serve as tie-breaker.

Section 4

The agenda for each meeting shall be finalized by the Chair in consultation with the Director of the Office of Children's Services.

All items requiring action shall be identified by the Chair for inclusion on the formal, written agenda.

At each meeting, members shall be afforded the opportunity to request items for inclusion on the next meeting's agenda as well as time for comments and announcements.

Additionally, each meeting shall include a public comment period with each public comment limited to five (5) minutes and the total comment period limited to 30 minutes. On a motion of Council, the period may be expanded.

No action shall be taken as a result of comments during the above referenced announcement and public comment period but rather action shall be deferred until the following meeting. On a motion of Council, this restriction may be waived.

ARTICLE VI: OFFICERS

Section 1

Pursuant to [§ 2.2-2648.C](#), Code of Virginia, the Secretary of Health and Human Resources, or a designated deputy, shall serve as chair and will convene Council.

Secretarial responsibilities shall be assumed by an administrative assistant from the Office of Children's Services.

ARTICLE VII: DUTIES OF THE OFFICERS

Section 1

The powers and duties of the Chair shall be to:

- Serve as the leader of the organization.

- Advise the Governor and the appropriate Cabinet Secretaries on behalf of the Council.
- Respond to legislative requests and address legislative committees on behalf of Council.
- Call and preside at meetings.
- Prepare an agenda, in collaboration with the Office of Children's Service Director, for each meeting.

Section 2

In the absence of the Secretary of Health and Human Resources or a designated Deputy Secretary, the Director of the Office of Children's Services shall serve as convener of the Council.

ARTICLE VIII: ORGANIZATION

Section 1

Duties and Responsibilities of the Council, as defined in § 2.2-2648. D of the Code of Virginia, relate to approval of policy and administrative oversight for the Children's Services Act (CSA) and include:

- Hiring and supervising a director of the Office of Children's Services (OCS).
- Appointing members of the State and Local Advisory Team.
- Providing for the establishment of interagency programmatic and fiscal policies developed by the OCS.
- Overseeing the administration of state policies governing state pool and trust funds.
- Providing for the administration of necessary functions to support the work of the OCS.
- Reviewing and taking appropriate action on issues brought before it by the OCS.
- Overseeing coordination of early intervention programs to promote comprehensive coordinated service delivery.
- Advising the Governor and appropriate Cabinet Secretaries on behalf of Council.

- Biennially publishing and disseminating a state progress report.

Additionally, the Council is solely responsible for appointment of work groups, tasks assigned and general timeframes in which the requested product will be brought before the Council for consideration.

Section 2

The Office of Children's Services (OCS) is established having the following powers and duties:

- Serves as the administrative entity of the state executive council ensuring that the decisions of the council are implemented §2.2-2649.

The director of the Office of Children's Services is authorized to:

- Develop and recommend to the Council programs and fiscal policies that promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;
- Develop and recommend to the Council state interagency policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;
- Develop and provide for the consistent oversight for program administration and compliance with state policies and procedures;
- Provide for training and technical assistance to localities in the provision of efficient and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families;
- Serve as liaison to the participating state agencies that administratively support the Office and that provide other necessary services; and
- Hire appropriate staff as approved by the state executive council.
- Implement in collaboration with participating state agencies, policies, guidelines and procedures adopted by Council.
- Consult regularly with the Virginia Municipal League and the Virginia Association of Counties on the implementation and operation of CSA.
- Perform other duties and responsibilities as defined in Code of Virginia § 2.2-2649.

Section 3

The State and Local Advisory Team is appointed by and responsible to the State Executive Council. As set forth in [§ 2.2-5202](#) of the Code of Virginia, duties and responsibilities include:

1. Advising the state executive council on state interagency program and fiscal policies which promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;
2. Advising state agencies and localities on training and technical assistance necessary for the provision of efficient and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families;
3. Advising the state executive council on the effects of proposed policies, regulations and guidelines.

The State and Local Advisory Team shall develop bylaws to be formally approved by Council.

Furthermore, the State and Local Advisory Team shall develop an annual work plan to be submitted to Council for review and action. Support for accomplishing the work plan shall be provided by the state agencies represented on the State and Local Advisory Team with approval of their respective Council members.

ARTICLE IX: AMENDMENTS

Any proposed amendment to these bylaws, other than those related to General Assembly action, shall be submitted to the membership of the Council not less than fourteen calendar days prior to the meeting at which action is to be considered. Any amendment shall become a part of these bylaws by a majority vote of those present at a regularly scheduled Council meeting.

ADOPTED-OCTOBER 30, 1998

REVISED 5/00 Based On House Bill 1510 (2000 Session)

REVISED 7/03 Based on House Bill 1955 and related (2003 Session)

REVISED 07/09 Based on Senate Bill 1179 (2009 Session)

REVISED 07/10 Based on Senate Bill 286 (2010 Session)

REVISED 2/13 Based on Senate Bill 396 and related (2012 Session)

REVISED 7/15 Based on Senate Bill 850 (2015 Session)

[REVISED 9/16 Based on House Bill 369 \(2016 Session\)](#)

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CSA POOL REIMBURSEMENT REQUEST REPORT COMPARISON (FY13 - FY16)

Today's Date: September 08, 2016	Net Total Expenditures of each Fiscal Year.
Net Total Expenditures include all reports with a status of 1 or greater (All non-pended reports)	

EXPENDITURE DESCRIPTION	NET TOTAL EXPENDS FY13	NET TOTAL EXPENDS FY14	NET TOTAL EXPENDS FY15	NET TOTAL EXPENDS FY16	\$ CHG	% CHG
NUMBER OF REPORTS	1,570	1,602	1,610	1,589	-21	
1. MANDATED SERVICES / RESIDENTIAL / CONGREGATE CARE						
1a. Foster Care - IV-E children in Licensed Residential Congregate Care ; pool expenditures for costs not covered by IV-E (i.e., non room-and-board)	3,342,048	3,138,093	3,443,889	3,075,481	-368,408	-10.7%
1b. Foster Care - all others in Licensed Residential Congregate Care	22,337,204	18,965,500	20,031,398	17,663,273	-2,368,125	-11.8%
1c. Residential Congregate Care – CSA Parental Agreements ; DSS Noncustodial Agreements	8,795,372	9,168,981	10,159,396	11,152,024	992,628	9.8%
1d. Non-Mandated Services/Residential/Congregate	1,527,285	1,426,266	1,209,325	983,424	-225,901	-18.7%
1e. Educational Services - Congregate Care	37,915,799	36,462,285	39,255,058	40,970,618	1,715,560	4.4%
- School Referred Residential - Non-Educational Services	0	0	0	0	0	0 %
2. OTHER MANDATED SERVICES						
2a. Therapeutic (Treatment) Foster Care – IV-E	23,340,817	24,844,724	28,245,249	30,418,350	2,173,101	7.7%
2a.1 Therapeutic (Treatment) Foster Care	50,337,279	46,546,089	44,752,210	40,371,082	-4,381,128	-9.8%
2a.2 Therapeutic (Treatment) Foster Care – CSA Parental Agreements ; DSS Noncustodial Agreements	1,045,039	670,522	435,216	531,454	96,238	22.1%
2b. Specialized Foster Care – IV-E ; Community Based Services	1,149,570	1,676,903	1,855,129	1,112,652	-742,477	-40.0%
2b.1 Specialized Foster Care	4,595,913	4,055,812	4,444,106	2,639,217	-1,804,888	-40.6%
2c. Family Foster Care – IV-E ; Community Based Services	1,008,369	1,058,026	1,341,963	1,892,384	550,420	41.0%

Pod Totals Comparison by Category - Statewide

2d.	Family Foster Care Maintenance only	4,034,054	3,308,774	3,939,314	2,654,568	-1,284,746	-32.6%
2e.	Family Foster Care – Children receiving maintenance and basic activities payments; independent living Stipend/Arrangements	10,171,562	10,186,871	9,397,276	13,943,262	4,545,986	48.4%
2f.	Community - Based Services	26,810,368	28,847,442	31,225,844	34,088,541	2,862,697	9.2%
2f.1	Community Transition Services – Direct Family Services to Transition from Residential to Community	1,700,551	2,030,124	1,405,643	1,330,632	-75,011	-5.3%
2g.	Alternative Day Placement/ SPED Private Day	97,146,165	106,497,873	119,033,926	132,040,057	13,006,132	10.9%
2h.	Wrap Services for Students with Disabilities	1,869,807	1,699,785	1,766,464	1,832,674	66,209	3.7%
2i.	Psychiatric Hospitals/Crisis Stabilization Units	96,709	12,000	276,593	208,998	-67,595	-24.4%
3.	Non-Mandated Services/Community-Based	3,420,154	3,602,032	3,874,316	3,871,484	-2,832	-0.1%
	GRAND TOTALS:	300,644,064	304,198,103	326,092,315	340,780,176	14,687,861	4.5%

The Office of Children's Services.© 2015

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Office of
Children's Services

Options for Increasing the Integration of Children Receiving Special Education in Private Day Settings into their Home School Districts

Chapter 780, Item 285. M. (i)

State Executive Council for Children's Services
September 15, 2016



Office of
Children's Services

Authority

2016 Appropriation Act – Chapter 780, Item 285 M.

M. The State Executive Council (SEC) for Children's Services shall continue to review and develop a robust set of options for (i) increasing the integration of children receiving special education private day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining outcome data to assist in making decisions on the appropriate utilization of these services, . . . The SEC shall present a robust set of options and recommendations that include possible changes to policies, procedures, regulations and statutes, including any fiscal impact for consideration by the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.



Office of
Children's Services

Work Group Membership

- Virginia Association of School Superintendents (VASS)
- Virginia School Board Association (VSBA)
- Virginia Association of Counties (VACo)
- Virginia Municipal League (VML)
- Virginia Council of Administrators of Special Education (VCASE)
- Virginia Association of Independent Specialized Education Facilities (VAISEF)
- Virginia Board for People With Disabilities (VBPD)
- Parents of Students with Disabilities

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Office of
Children's Services

Statutory Framework

§ 2.2-5211. State pool of funds for community policy and management teams.

B. . . . The target population shall be the following:

1. Children and youth placed for purposes of special education in approved private school educational programs, previously funded by the Department of Education through private tuition assistance;

2. Children and youth with disabilities placed by local social services agencies or the Department of Juvenile Justice in private residential facilities or across jurisdictional lines in private, special education day schools, if the individualized education program indicates such school is the appropriate placement while living in foster homes or child-caring facilities, previously funded by the Department of Education through the Interagency Assistance Fund for Noneducational Placements of Handicapped Children;

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Statutory Framework

§ 2.2-5211. State pool of funds for community policy and management teams.

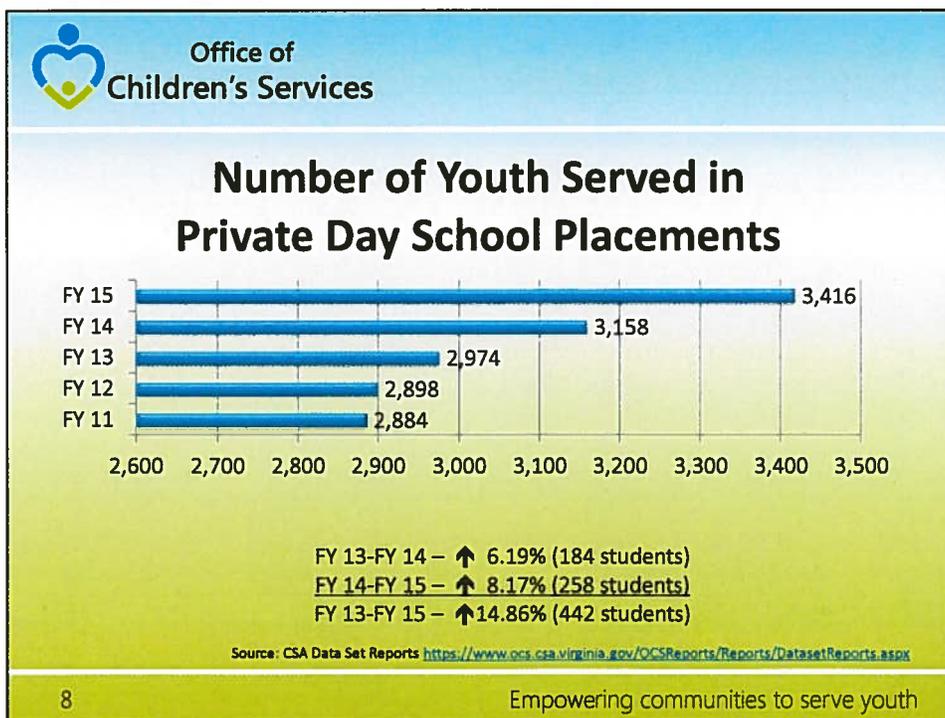
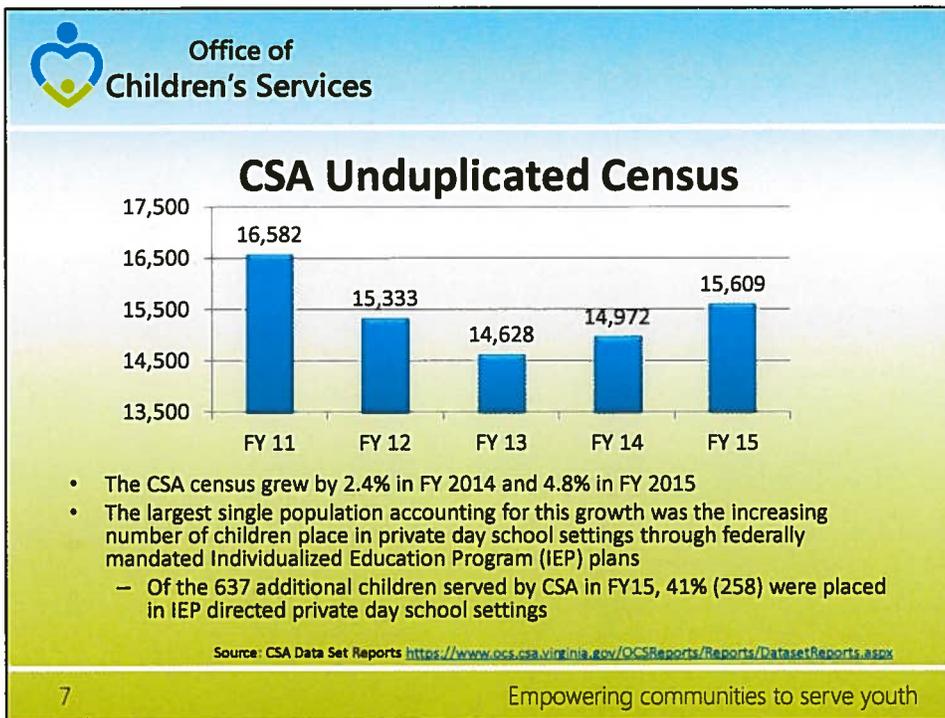
C. The General Assembly and the governing body of each county and city shall annually appropriate such sums of money as shall be sufficient to (i) provide special education services . . . for children and youth identified in subdivisions B 1, B 2, and B 3 and (ii) meet relevant federal mandates for the provision of these services. . . .

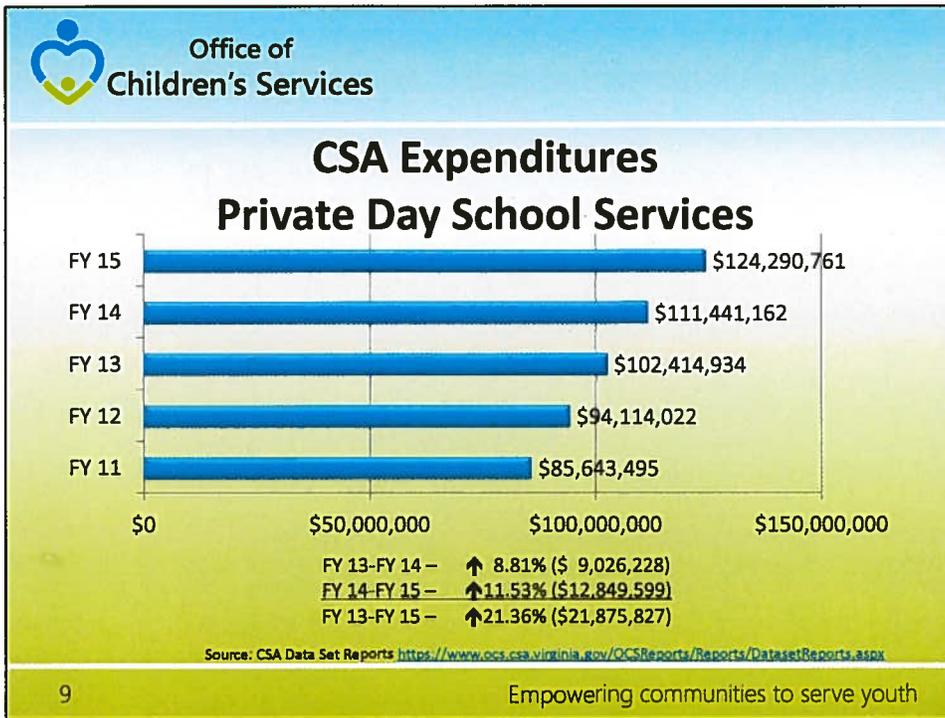


Statutory Framework

§ 2.2-5212. Eligibility for state pool of funds.

A.3. The child or youth requires placement for purposes of special education in approved private school educational programs.





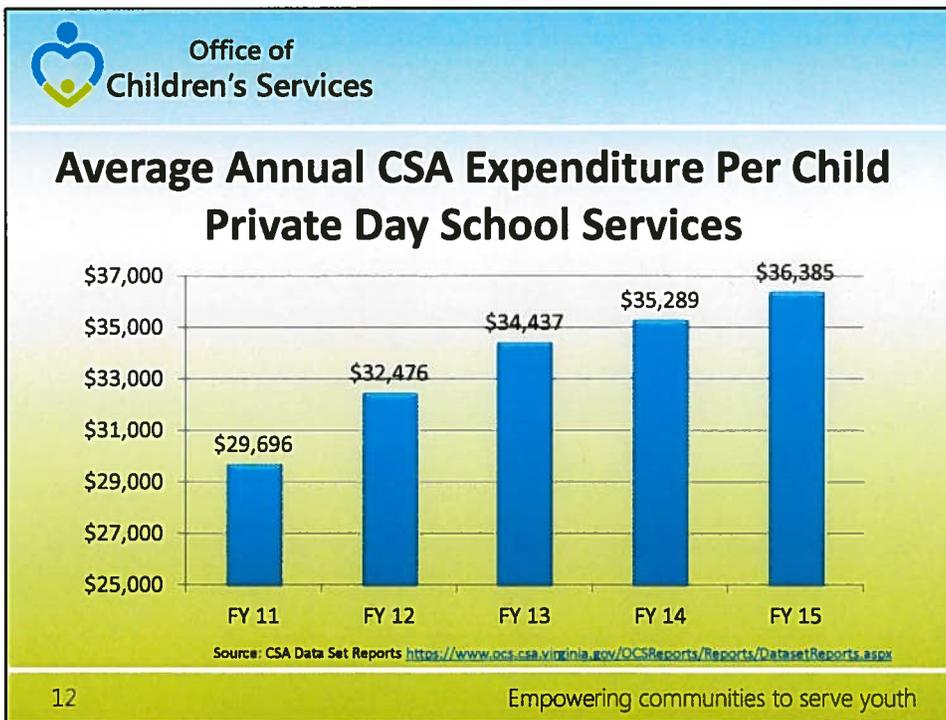
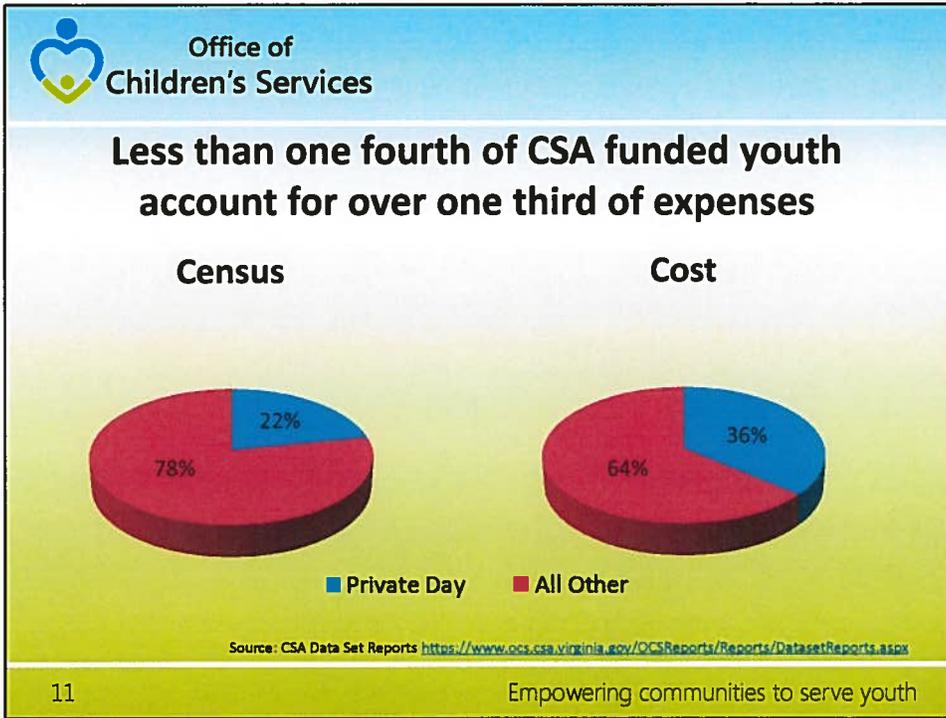
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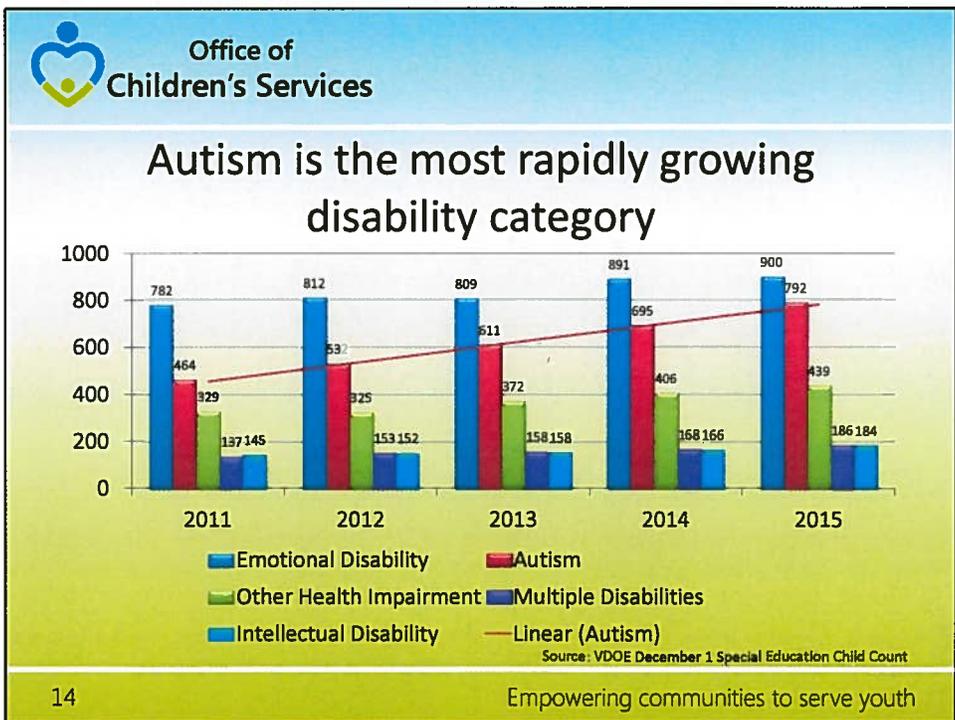
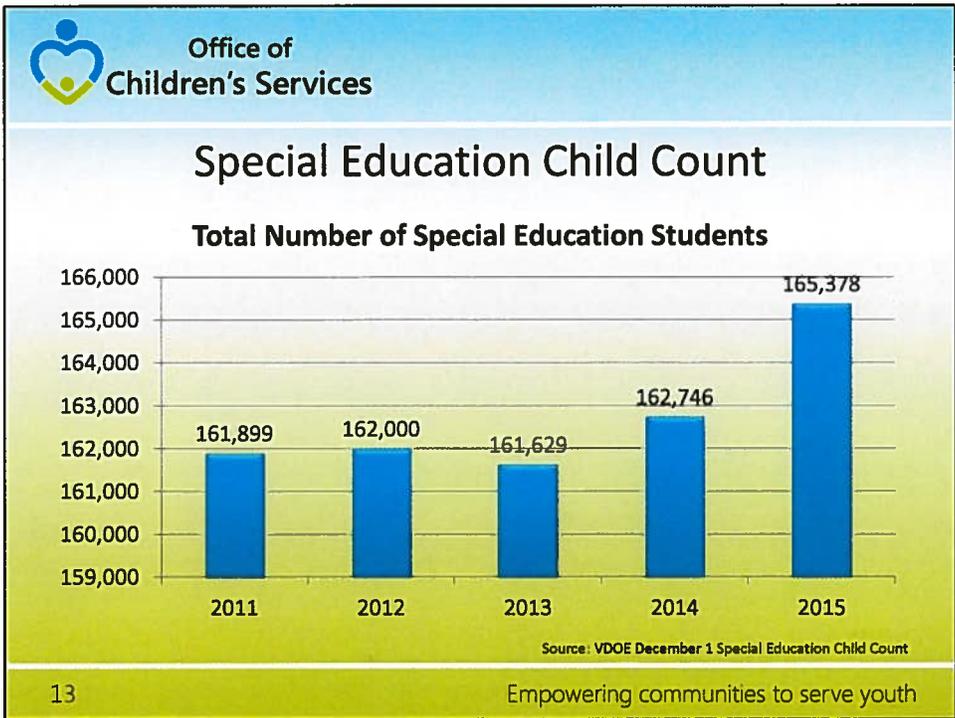
FY2016 (YTD) Shows Consistent Trend

- As of September 1, 2016:
 - CSA expenditures for private day education placements are up 12.3% over the same date in 2015
 - Of the overall increase of \$20.5 million in CSA expenditures, \$14.4 million (70%) is due to private day education placements

Source: CSA Data Set Reports <https://www.ocs.virginia.gov/OCSReports/Reports/DatasetReports.aspx>

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Summary: What Does the Data Show?

- **Private Day Special Education Services (CSA Data, FY 11 – FY 15)**
 - 18.5% increase in census (532 students)
 - 45.1% increase in total expenditures (\$38,647,266)
 - 22.5% increase in expenditure per child (\$6,689)
- **Dec. 1 Special Education Child Count (VDOE Data, 2011 – 2015)**
 - 70.7% increase in private day for students with Autism (328 students)
 - 35.8% increase in private day for students with Multiple Disabilities (49 students)
 - 33.4% increase in private day for students with Other Health Impairments (110 students)
 - 26.9% increase in private day for students with Intellectual Disabilities (39 students)
 - 15.1% increase in private day for students with Emotional Disabilities (118 students)



Options for Consideration

- **Restructuring the Children's Services Act (CSA)**
 - A. Amend the Children's Services Act to allow funding for services to students with disabilities in the public school setting
(This option was endorsed by consensus of the work group)
 - B. Amend the Children's Services Act to "carve out" and transfer state pool funding for students with disabilities to VDOE
(This option was not endorsed by consensus of the work group)
 - C. Request funding for several pilot programs to "implement and test" strategies for increasing the education of students with disabilities in the least restrictive, public school setting
(This option was endorsed by consensus of the work group)



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- **Increase attention to the successful transition/reintegration of students with disabilities from private settings to public school settings**
 - Identify the resources which will be necessary in order to transition students in private day school settings to a lesser restrictive environment. Multiple strategies suggested.
(All options included in this area were endorsed by a consensus of the work group)
- **Support and enhance the ability of public schools to serve students with disabilities in the least restrictive environment**
 - VDOE should continue to provide guidance to LEAs regarding the continuum of services which are necessary to appropriately meet the mandate that students are required to be educated in the least restrictive environment (LRE). Multiple strategies suggested.
(All options included in this area were endorsed by a consensus of the work group)

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Empowering communities to serve youth



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- **Identify and collect data on an array of measures to assess the efficacy of private special education day school placements**
 - VDOE, local school divisions, and VAISEF should work together to identify mutually agreed upon, evidence-based definitions of outcome measures applicable and appropriate for the population of children served in private special education day school placements. Outcomes for children served in private residential special education programs should also be included in this process. Multiple strategies suggested.

(All options included in this area were endorsed by consensus of the work group)

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Additional Issues and Considerations

- Support current DOE plans to restructure the Regional Tuition Reimbursement Program to distribute these resources in a more geographically equitable manner and with greater accountabilities.
- Policy makers should be educated as to the significant nature of the challenges presented by students with disabilities, the need for many of them to be educated in more restrictive environments, and the high cost of providing effective educational services to these children.
- Education providers are obligated to demonstrate effectiveness, including long-term cost avoidance (e.g., preventing youth from negative long-term outcomes including criminal justice involvement, un/underemployment that are likely sequelae to school failure).



Additional Issues and Considerations

- Encourage local governments and school divisions to discuss how the local matching funds for students in private educational settings can be best configured to encourage maintaining students in the least restrictive environment. Preliminary data suggests that localities where school divisions are responsible for the matching funds, as opposed to the general local government budget, have lower rates of private educational placements.
- Current law and practice allows Medicaid-eligible students with disabilities to receive services such as therapeutic day treatment in the public school setting while non-Medicaid eligible students with disabilities cannot access similar publicly funded services in that setting.
- Current law and practice allows CSA funding to be used for services in the public school setting if the child is not identified with a disability.

**Work Group on Private Day Educational Services
State Executive Council for Children’s Services (SEC) / Office of Children’s Services (OCS)
Virginia Department of Education (VDOE)**

Authority:

2016 Appropriation Act – Chapter 780, Item 285 M.

M. The State Executive Council (SEC) for Children's Services shall continue to review and develop a robust set of options for (i) increasing the integration of children receiving special education private day treatment services into their home school districts, including mechanisms to involve local school districts in tracking, monitoring and obtaining outcome data to assist in making decisions on the appropriate utilization of these services, . . . The SEC shall present a robust set of options and recommendations that include possible changes to policies, procedures, regulations and statutes, including any fiscal impact for consideration by the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.

A work group was convened in accordance with the language in the Appropriation Act. The group was co-facilitated by the Office of Children’s Services (OCS) and the Virginia Department of Education (VDOE) and met three times (July 14, 2016 July 29, 2016, and August 24, 2016). Presentations were provided by OCS, VDOE, and the Virginia Association of Independent Specialized Education Facilities (VAISEF). The following groups were represented:¹

- Virginia Association of School Superintendents (VASS)
- Virginia School Board Association (VSBA)
- Virginia Association of Counties (VaCO)
- Virginia Municipal League (VML)
- Virginia Council of Administrators of Special Education (VCASE)
- Virginia Association of Independent Specialized Education Facilities (VAISEF)
- Virginia Board for People With Disabilities (VBPD)
- Parents of Students with Disabilities

Options for Consideration by the State Executive Council for Children’s Services

Restructuring of the Children’s Services Act (CSA)

The work group had in-depth discussion of the current structure of the CSA which provides sum-sufficient funding when “the child or youth requires placement for purposes of special education in

¹ The full listing of participants is found in Attachment A.

approved private school education programs (§ 2.2-5212, COV). The Code of Virginia and guidance from the VDOE Superintendent of Public Instruction (Superintendent's Memo #018-10, *Protection Of Rights To A Free Appropriate Public Education And Use Of Funds Under The Comprehensive Services Act (CSA)*, January 29, 2010) do not allow the use of CSA state pool funds to provide services to students with disabilities in the public school setting.

Many members of the work group felt strongly that local school divisions could make meaningful reductions in the placement of students in private day educational placements if they had access to additional fiscal resources. Such resources would be deployed to implement an array of school-based interventions prior to a decision to place a child in a private setting.

Restructuring the Children's Services Act with Regard to Funding Special Education Services

Option A: Amend the Children's Services Act to allow funding for services to Students with Disabilities in the public school setting

This option was endorsed by a consensus of the work group with primary reasons cited as protecting the current sum-sufficient requirements under the CSA while increasing resources for local school divisions to intervene prior to placement in a more restrictive private educational setting.

- Amend the Code of Virginia to extend the CSA sum-sufficient language to include students with disabilities served in the public school setting.

Advantages/Opportunities Identified

- Will provide local school divisions with funding and flexibility to implement strategies to maintain students in the least restrictive environment not possible under current restrictions on use of CSA state pool funds.
- Will maintain this population of children in the CSA multi-disciplinary model.
- Will not jeopardize current state commitment to sum-sufficient funding under the CSA for students with disabilities, resulting in cost shifting to localities.

Concerns Identified

- Federal law has been interpreted by the VDOE as prohibiting this practice as it requires that services specified in a student's IEP and provided in the public school setting are the financial responsibility of the local education agency (LEA).
- There will be a significant fiscal impact on both the CSA state pool and local matching funds to adopt this option. In the final year when such services were allowable through CSA

funding (FY2010), the combined state and local expenditure for services in the public schools was \$19.5 million.

- There is no accountability process that would assure that adoption of this option would actually result in more students being served in less restrictive environments.

Option B: Amend the Children’s Services Act to “carve out” and transfer CSA state pool funding for students with disabilities to the VDOE.

This option was discussed extensively but not endorsed by consensus of the work group. Primary reasons were concern over the loss of state sum-sufficient funding for this population and removal of these students from the multi-disciplinary CSA process.

- Amend § 2.2-5211 C. and § 2.2-5212.A.3., COV and other relevant sections of the Code of Virginia to remove this population from the CSA statutory eligibility criteria and sum sufficient funding requirements.
- Determine the full amount of the CSA state pool expended for this purpose and transfer this appropriation to the VDOE.
- Combine these transferred CSA state pool funds with the current/restructured VDOE Regional Tuition Reimbursement Program funds and other appropriate state and federal funding streams for students with disabilities so they may be more equitably distributed across the Commonwealth.
- The General Assembly and VDOE, with input from appropriate entities, shall determine the funding mechanism to meet legal requirements for the education of students with disabilities.
 - Decisions concerning sum sufficiency and local contributions will be at the initiative of the General Assembly.
 - Any change of this significance would require several years to plan and implement.

Advantages/Opportunities Identified

- As with Option A, this will allow for local flexibility in program development, funding utilization and a potentially greater ability for LEAs to educate students within the public school setting. This approach would allow local school division to design strategies to best meet their unique circumstances, including partnerships with private providers to meet student needs.

Concerns Identified

- Members of the work group were very concerned that any action which placed the current sum sufficient language into jeopardy would result in significant cost shifting to local governments and school divisions.
- While many localities currently bypass the multi-disciplinary CSA process for placement of students with disabilities in private educational settings, this option would reinforce that activity and deprive this population of the benefit of the multi-disciplinary CSA process.

Option C: Request funding for several pilot programs to “implement and test” strategies for increasing the education of students with disabilities in the least restrictive, public school setting.

- Request the General Assembly to appropriate funds to the CSA to allow localities to apply for “grants” to design and implement promising strategies. This would be a competitive application process with strict evaluation requirements. At the conclusion of the demonstration projects, results could be presented to the General Assembly for consideration of future policy decision.

Increase Attention to the Successful Transition/Reintegration of Students with Disabilities from Private Settings to Public School Settings

The options included in this area were endorsed by consensus of the work group.

- Identify the resources that will be necessary in order to transition students in private day school settings to a lesser restrictive environment.
 - DOE should convene a work group tasked with exploring the resources necessary for transition as well as currently available funding options to support identified resources.
 - The work group will also identify best practices related to the transition of students from private settings back to public school and will include examination of:
 - including reintegration plans with measurable goals which need to be achieved in order to successfully return to a lesser restrictive environment in a student’s Individualized Education Programs (IEP) at the time of placement in a private educational placement;
 - school climate interventions; and
 - parent, teacher and school administrator training

Support and Enhance the Ability of Public Schools to Serve Students with Disabilities in the Least Restrictive Environment

The options included in this area were endorsed by consensus of the work group.

- VDOE should continue to provide guidance to LEAs regarding the continuum of services which are necessary to appropriately meet the mandate that students are required to be educated in the least restrictive environment (LRE).
 - DOE should ensure that all school divisions have access to existing resources addressing educating students with disabilities in the least restrictive environment including Positive Behavioral Intervention and Supports.
 - DOE and OCS should encourage localities to fully utilize the appropriated special education wraparound funds to intervene prior to a student's placement in a private educational program.
 - Support the full implementation (including program fidelity) of the Virginia Tiered System of Supports (VTSS) and other evidence-based approaches being implemented by VDOE and local school divisions and emphasize the application of such strategies in addressing the needs of students with disabilities.
 - Consider working with the Commonwealth of Virginia's Special Education Advisory Committee (SEAC) in their examination of LRE and how best to serve students with disabilities in the public school setting.
 - Explore strategies to increase the availability of qualified professionals in various disciplines (e.g., Applied Behavior Analysts, school psychologists) especially in underserved areas. The lack of such professionals has been cited as a barrier to effective intervention efforts in the public school setting.

Outcomes for Students in Private Special Education Settings

The options included in this area were endorsed by consensus of the work group.

Identify and collect data on an array of measures to assess the efficacy of private special education day school placements.

- VDOE, local school divisions, and VAISEF should work together to identify mutually agreed upon, evidence-based definitions of outcome measures applicable and appropriate for the population of children served in private special education day school placements. Outcomes

for children served in private residential special education programs should also be included in this process.

- Outcomes and indicators for students with disabilities served in private settings should mirror those already collected and reported on by the VDOE and in some instances, required by the U.S. Department of Education. Potential outcome markers for consideration:
 - Length of stay by disability category and placement
 - Assessment (SOL, VAAP, VSEP, VGLA) scores
 - Transition rates to a LRE
 - Graduation rates and diploma status
- Relevant indicators beyond those already in place should be identified and implemented.
- Once identified, these indicators should be reported separately for children served in private special education programs unless doing so would provide personally identifiable student information.
- Defined outcomes, to the extent possible, controlled for severity of the disabilities of the children served in both public and private educational settings, including regional special education programs funded by VDOE.
- Outcomes measurement and analysis should extend longitudinally to include those beyond the student's discharge from a private or public school setting. The Virginia Longitudinal Data System (VLDS) could serve as a good starting point for such efforts.
- Measurement efforts should consider home and community supports as they impact placement decisions.
- There will be a fiscal impact of enhanced measurement efforts that cannot be determined at this time.

Other Considerations Raised by the Work Group

- Support current DOE plans to restructure the Regional Tuition Reimbursement Program to distribute these resources in a more geographically equitable manner and with greater accountabilities. *Note:* This option was not discussed in detail by the Work Group but is included for the information of the State Executive Council.

- Policy makers should be educated as to the significant nature of the challenges presented by students with disabilities, the need for many of them to be educated in more restrictive environments, and the high cost of providing effective educational services to these children.
- Education providers are obligated to demonstrate effectiveness, including long-term cost avoidance (e.g., preventing youth from negative long-term outcomes including criminal justice involvement, un/underemployment that are likely sequelae to school failure).
- Encourage local governments and school divisions to discuss how the local matching funds for students placed in private educational settings can be best configured to encourage maintaining students in the least restrictive environment. Preliminary data suggests that localities where school divisions are responsible for the matching funds, as opposed to the general local government budget, have lower rates of private educational placements.
- Current law and practice allows Medicaid-eligible students with disabilities to receive services such as therapeutic day treatment in the public school setting while non-Medicaid eligible students with disabilities cannot access similar publicly funded services in that setting.
- Current law and practice allows CSA funding to be used for services in the public school setting if the child is not identified with a disability.

Attachment A

Work Group Members

Name	Title	Representing
Jim Gillespie	System of Care Director, Fairfax County	Virginia Association of Counties
Teresa Joiner	Augusta County, Virginia	Parents
Becky Silvey	Franklin County, Virginia	Parents
Kim Campbell	Toano, Virginia	Parents
Emily Webb	Director of Government Relations	Virginia School Board Association
Nancy Welch	Superintendent, Mathews County Public Schools	Virginia Association of School Superintendents
Gena Keller	Superintendent, Fluvanna County Public Schools	Virginia Association of School Superintendents
Dr. Scott Baker	Superintendent, Spotsylvania County Public Schools	Virginia Association of School Superintendents
Dr. Jeff Cassell	Superintendent, Waynesboro City Public Schools	Virginia Association of School Superintendents
Dr. Scott Kizner	Superintendent, Harrisonburg City Public Schools	Virginia Association of School Superintendents
Lloyd Tannebaum	Rivermont Schools	Virginia Association of Independent Specialized Education Facilities
Adam Warman	The Faison School	Virginia Association of Independent Specialized Education Facilities
Heidi Lawyer	Executive Director	Virginia Board for People with Disabilities
Mike Murphy	Assistant City Manager, City of Charlottesville	Virginia Municipal League
Becky China	CSA Administrator, City of Virginia Beach	Virginia Municipal League
Michele Jones	Director of Special Education, Newport News Public Schools	Virginia Municipal League
Angie Neely	Director of Special Education, Culpeper County Public Schools	Virginia Council of Administrators of Special Education
Susan Aylor	Director of Special Education Orange County Public Schools	Virginia Council of Administrators of Special Education
Bill Elwood	Executive Director	Virginia Association of Independent Specialized Education Facilities
John Eisenberg	Assistant Superintendent for Special Education and Student Services	Virginia Department of Education
Scott Reiner	Executive Director	Virginia Office of Children's Services



Office of
Children's Services

Options for Funding Educational Costs for Students Placed in Psychiatric Residential Treatment Facilities for Non- Educational Reasons Authorized by Medicaid

Chapter 780, Item 285. M. (ii)

State Executive Council for Children's Services
September 15, 2016



Office of
Children's Services

Problem Definition

- Medicaid-eligible children admitted by their parent (without CSA involvement) to a private psychiatric residential treatment facility (Level C PRTF)
 - Admissions *are not* for educational reasons (per an IEP)
 - May include children who become Medicaid-eligible after 30 days of admission (DMAS "family-of-one" criteria)
 - Educational programming (5.5 hours per day) is required by the licensure standards promulgated by DBHDS and VDOE
 - There is no public source of funding for these educational services, other than CSA



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Relevant Data

(FY2015 – FY2016 average)

- # of Non-CSA Admissions – 570
- Average Educational LOS – 151 days
- Average Per Diem Cost - \$160
- Estimated Fiscal Impact of all cases being funded via CSA¹
 - Local Impact = \$14.3 million/year
 - State Impact = –\$543,000/year

¹ education share & local Medicaid match

Sources: DMAS/Magellan; CSA Service Fee Directory

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Fiscal Impact Assumptions

- Funding mechanism would be through CSA, as opposed to other sources (e.g., education-based funds)
- If managed through CSA teams, all children would be approved for admission as opposed to “diverted” to community-based services or other funding identified (e.g., adoption assistance, parental payments). This results in a likely “worst case” scenario.
- # of admissions, per diem costs and LOS remain stable

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Prior Efforts

- The State Executive Council has considered this issue for over two years and after extensive deliberations and public comment, submitted recommendations to the General Assembly in the Fall of 2015.
 1. General fund appropriations should be made to cover the full cost of education
 2. Local Medicaid share requirement should be eliminated
 3. Collect data to further understand the issue
- None of these recommendations was adopted and the SEC was directed to provide additional ("robust") options

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Current Process

- The 2015 work group was reconvened to review the full set of options identified (but not adopted by the SEC in September 2015)
 - Options were reviewed and modified as needed, and advantages and concerns listed for each
 - Impact of newly announced DMAS regulations was considered
 - New options were added

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Options – Magellan and DMAS MCOs

- Implement robust care coordination activities between the Magellan Behavioral Health Services Administrator, Medicaid MCOs, community services boards and local Children's Services Act (CSA) teams to improve outcomes for Medicaid eligible children and families. For Medicaid members admitted to acute psychiatric care facilities, this should include comprehensive discharge planning.

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Options – CSA and Magellan/DMAS

- Monitor the impact of recently announced changes in the DMAS regulations for obtaining a Certificate of Need for residential placement to determine the impact of those changes on the number of Medicaid-eligible children being admitted to residential treatment without CSA involvement.

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Options – CSA

- Develop and disseminate a standardized document, informing parents of the process for, and benefits of, accessing the local CSA program.
- Explore the use of Virginia 211 as a resource to provide relevant information to citizens seeking assistance. The standardized document described in Option 4, above would serve as the foundation for this option.



Options – CSA

- The SEC should obtain a definitive legal opinion and then provide clarification of the guidelines for CSA eligibility through a “CSA Parental Agreement” as a Child in Need of Services (CHINS) that separates eligibility from the prerogative of the local CSA program to define the elements of the Parental Agreement.



Options – VDOE

- Explore mechanisms for local school divisions to provide the required educational services within the PRTF.
- VDOE and local school divisions should consider options for local school divisions to assume at least some of the cost for children placed in PRTF for non-educational reasons, including utilization of Average Daily Membership (ADM) and Standards of Quality (SOQ) funds.



Additional Options Identified

- Explore options for the local Medicaid-share that would result in more equitable distribution of fiscal impact between CSA state pool and local CSA programs.
 - Change local match rate percentage
 - “Waive” local match rate on existing placements of sum-sufficient children (i.e., foster care and IEP)



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Additional Options Identified

- Request DMAS and other appropriate entities to examine the “family of one” eligibility process. This process allows families to place their children prior to review by Magellan or a local CSA team and then requires an approval process once the child is already in placement.
- For families seeking to establish Medicaid eligibility as a “family of one,” establish procedures through which the local DSS eligibility staff provide information on the local CSA process and make a referral to the local CSA team.

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Additional Options Identified

- If PRTFs accept admissions without provisions for funding of educational services, the PRTF should accept the financial burden of those services.
- Defer further action until implementation and assessment of the new DMAS regulations. See how many local CSA teams sign on to be the independent certification team.

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Additional Options Identified

- Establish policies to maximize the use of Medicaid to pay for supplemental educational services provided in a residential treatment facility and specified in a child's IEP (e.g., speech therapy, occupational therapy, applied behavior analysis) to maximize federal participation.

Funding Educational Costs for Students Placed through Medicaid in Psychiatric Residential Treatment Facilities for Non-Educational Reasons

Options for Consideration by the State Executive Council (SEC)

Authority:

2016 Appropriation Act – Chapter 780, Item 285

M. The State Executive Council (SEC) for Children's Services shall continue to review and develop a robust set of options for ... (ii) funding the educational costs with local school districts for students whose placement in or admittance to state or privately operated psychiatric or residential treatment facilities for non-educational reasons has been authorized by Medicaid. The SEC shall continue its review with the assistance of relevant stakeholders, including representatives of the Department of Education, the Department of Medical Assistance Services, the Office of Comprehensive Services, the Department of Behavioral Health and Developmental Services, local school districts, local governments, and public and private service providers. The SEC shall present a robust set of options and recommendations that include possible changes to policies, procedures, regulations and statutes, including any fiscal impact for consideration by the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.

Background:

Psychiatric residential treatment facilities (PRTFs) are required by regulation (12VAC35-46-970, 8VAC20-671-420.A.) to enroll and provide residents with educational programming according to standards for the duration of the school year and school day. The school programs in these facilities are licensed by the Virginia Department of Education (VDOE) and are therefore required to meet these regulatory standards.

Medicaid-eligible children admitted to private psychiatric residential treatment facilities for non-educational reasons with the involvement of the local Children's Services Act (CSA) teams have their facility-based educational services included in the package of CSA approved and funded services. This is accomplished through each locality's routine CSA practices. These children may include those eligible for CSA funded services by virtue of being in the custody of a local department of social services or through a CSA eligibility determination for children remaining in the custody of the parents and for whom a CSA Parental Agreement is executed.

Medicaid-eligible children, whose parents/guardians arrange for admission to a PRTF without the involvement of the local CSA teams, are entitled to Medicaid funding for the treatment services. However, as Medicaid does not fund education services, there is no mechanism for payment (other than by the parents themselves or waiving of the educational cost by the PRTF). *At present, the only access to public funding for the required educational services is if*

the local CSA teams are involved in the placement. In FY2015-2016, an average of Medicaid-eligible 570 children were placed in PRTFs without CSA involvement (*Source: DMAS/ Magellan*).

Beginning in the spring of 2014, the SEC attempted to address this issue. Several work groups were conducted, extensive public comment was provided and a report issued to the General Assembly (RD241, 2015). This report reflected a lack of consensus about specific strategies for the long-term resolution of the issue and proposed short-term financing strategies which placed the full burden of funding these services with the state. None of these recommendations were adopted.

The 2016 General Assembly directed the SEC to revisit the matter and to offer a “robust set of options ...”. On behalf of the SEC, the Office of Children’s Services (re)convened a work group of the designated stakeholders to advise the Council. The work group met for six hours over two meetings. Membership is detailed in Attachment B.

Developments since the 2015 Report and Recent Work Group Process:

In the fall of 2016, the Department of Medical Assistance Services (DMAS) announced impending changes to become effective December 1, 2016 (via emergency regulation) to the process by which Medicaid-eligible children are authorized for admission to a PRTF. While this new process is not designed to directly address the issue at hand, it is likely to have some impact. That impact is unknown at the time of this report. Monitoring the impact is one option presented (see Option 2 below) and will address last year’s recommendation to collect data on the process that results in children being admitted to a PRTF without local CSA team involvement.

An updated fiscal impact assessment which reflected an average of two years of data (FY2015 and FY2016) has been completed for review. The fiscal impact model is based on an assumption of all children admitted to a PRTF doing so through involvement in a local CSA process (the only present method for funding the educational costs). The fiscal impact analysis is presented in Attachment C. The fiscal impact analysis is a “worst case” scenario in that it assumes that all children currently admitted without CSA involvement would become CSA-eligible, approved and funded. It is likely that a number of these children would be directed to alternative, non-residential services by the local CSA team or they would be eligible for other sources of funding such as adoption assistance agreements through the state Department of Social Services. However, even under the most optimistic assumptions, the fiscal impact on local CSA programs would be substantial.

The work group convened in response to the 2016 General Assembly directive reviewed all of the developed options that were not previously adopted by the SEC, the updated fiscal impact analysis, and the potential impact of the recently announced DMAS regulatory changes. A

detailed review of these options was presented to the State Executive Council at its September 15, 2016 meeting. For each set of options, the intent of the proposed activity along with identified advantages/opportunities and challenges were provided where defined by the work group. The following options are organized to reflect the entity most responsible or impacted.

Activities by Magellan and DMAS Managed Care Organizations (MCO)

Intent:

Provide more seamless and effective care coordination between all public entities involved in the provision of behavior health services to Medicaid members who potentially require placement in a psychiatric residential treatment facility.

Options:

1. Implement robust care coordination activities between the Magellan Behavioral Health Services Administrator, Medicaid MCOs, community services boards and local Children's Services Act (CSA) teams to improve outcomes for Medicaid eligible children and families. For Medicaid members admitted to acute psychiatric care facilities, this should include comprehensive discharge planning.

Comment: While this recommendation will not directly address the funding issue, greater collaboration between the entities involved is likely to result in an improved service delivery system. This option is being addressed through the recently announced changes to DMAS regulations.

Activities by local Children's Services Act (CSA) Teams (Family Assessment (FAPT) and Community Policy and Management (CPMT) Teams)

Intent:

Maximize the value of the multi-disciplinary, locally-based CSA teams through policies and practices which encourage children and families to participate in the CSA process as opposed to admissions to residential treatment facilities without CSA involvement.

Options:

2. Monitor the impact of recently announced changes in the DMAS regulations for obtaining a Certificate of Need for residential placement to determine the impact of those changes on the number of Medicaid-eligible children being admitted to residential treatment without CSA involvement. OCS and local CPMTs should collaborate with DMAS/Magellan on data collection to more fully understand aspects of the process.

Comment: Parameters for such data collection are already under discussion between DMAS, Magellan, and the Office of Children's Services (OCS))

3. Where the local CSA teams opt to serve (under the new DMAS proposed regulations) as the entity providing authorization and approval of the admission of Medicaid-eligible children to a PRTF, policy and practice should require the FAPT meet in a "timely manner" to complete an assessment and decision.

Comment: This option is addressed in the new DMAS regulations and requires no further action at this time.

4. Develop and disseminate a standardized document, informing parents of the process for, and benefits of, accessing the local CSA program. CSA benefits include access to multi-disciplinary planning, a range of community-based services, case management and care coordination, and if approved for admission to a PRTF, coverage of the cost of educational services. Such an informational document would be made widely available including through acute care psychiatric hospitals, PRTFs and other community settings.
5. Explore the use of Virginia 211 as a resource to provide relevant information to citizens seeking assistance. The standardized document described in Option 4, above would serve as the foundation for this option.
6. The SEC should obtain a definitive legal opinion and then provide clarification of the guidelines for CSA eligibility through a "CSA Parental Agreement" as a Child in Need of Services (CHINS) that:

"Youth admitted to a Level C RTF with authorization from Medicaid are presumed to be in the target population identified in §2.2-5211 and are presumed eligible for state pool funds in accordance with §2.2-5212."

Comment: Eligibility for CSA for parentally-placed children is specifically tied to the definition of a Child in Need of Services found in §16.1-228. Beyond a determination of CSA eligibility as a CHINS, local CSA teams will establish local requirements for entering into an agreement with the parent(s) (CSA Parental Agreement) which are distinct from the eligibility criteria (e.g., parents must agree that the plan is to have the child return home as soon as appropriate) and will be at the discretion of local CSA policy.

Advantages/Opportunities re: Options 2 – 6

- Encouraging that all children with significant behavioral health needs participate in the locally-based, multi-disciplinary case planning and ongoing care coordination through the CSA is consistent with the system of care model which is generally accepted as a best practice. This approach will ensure that the widest array of community-based services are brought to bear and that for children whose needs require residential placement, continuity of care in discharge planning is maximized.
- Ensures that all Medicaid-eligible children admitted to psychiatric residential treatment with the approval of the local CSA teams would have the cost of required educational services covered by public funds.
- Collection of data under the newly proposed DMAS regulations will allow more precise understanding of practices that impact the role of the local CSA teams on admissions of children to psychiatric residential treatment. This would however, likely require several years of data collection to provide meaningful insight. (Option 2)

Disadvantages/Concerns re: Options 2 – 6

- Some local CSA programs have expressed inability to provide “timely” access (in accordance with defined Medicaid requirements) to case decision making (FAPT meetings) regarding issuance of a Certificate of Need / and or FAPT approval of a placement for PRTF placement. Reasons for this include FAPT meetings at lesser frequencies and lack of administrative funds/resources to manage additional and often complicated cases.
- Management of children who are already admitted to residential placement prior to CSA involvement (direct family placement prior to Medicaid eligibility being established) will potentially make the CSA process adversarial and “re-traumatizing” to children and families.
- Clarification of the CHINS eligibility criteria represents a perceived inappropriate expansion of CSA eligibility and there is concern that the Certificate of Need criteria may not adequately match the CHINS definition. (Option 6)
- Substantial fiscal impact on local governments (see Attachment C).

Activities by local school divisions and/or the Virginia Department of Education

Intent:

To identify additional funding and or/ service delivery mechanisms through which educational services for children placed by parents in psychiatric residential treatment facilities for non-educational reasons can be provided.

7. Explore mechanisms for local school divisions to provide the required educational services within the PRTF.
8. Department of Education and local school divisions should consider options for local school divisions to assume at least some of the cost for children placed in PRTF for non-educational reasons, including utilization of Average Daily Membership (ADM) and Standards of Quality (SOQ) funds.

Advantages/Opportunities re: Options 7 – 8

- Enhanced local control over educational programming for children placed in residential treatment settings. (Option 7)
- Easier transition back to regular classroom upon discharge from the residential setting. (Option 7)
- Educational continuity to keep students on diploma track. (Option 7)

Disadvantages/Concerns re: Options 7 – 8

- Fiscal impact on local school divisions. This is undetermined at present. (Option 8)
- Would need to clarify whether the responsible local school division is the one where the PRTF is located or the child's permanent residence. PRTF may be a considerable and impractical distance from the child's originating school division. (Option 7)
- Would require changes to Virginia Department of Behavior Health and Developmental Services regulations (e.g., 12VAC35-46-300) governing requirements of all personnel providing services in a PRTF. (Option 7)
- Multiple divisions could be providing services within the residential setting creating logistical concerns at the residential facility. (Option 7)

- Potential liability for residential treatment providers with outside personnel involved in the residential schools. (Option 7)

Activities Related to Community Services Boards (CSBs)

Intent:

More fully engage the public behavioral health entities (CSBs) in the care coordination (including discharge planning) of Medicaid-eligible or potentially Medicaid-eligible children with significant psychiatric needs in order to improve outcomes through linkages to needed community-based services and reduce avoidable admissions to residential treatment.

Options:

Several options for changes to DMAS regulations and/or the Code of Virginia were discussed with the intent of increasing the responsibility of the CSBs for discharge planning for all children admitted to an acute psychiatric hospital. After extended discussion, it was agreed that while overall improvement to the children's mental health system is a worthwhile goal, none of these options would directly address the charge to the work group and that the fiscal impact on the CSBs would be significant and undeterminable at this point. Therefore, none of the specific options discussed are included in this report.

Other Issues / Options

9. In order to establish a more equitable state and local share of the fiscal impact of all Medicaid-eligible children placed in a PRTF through the CSA process, request the General Assembly to waive the local Medicaid-match on children placed via CSA Parental Agreement. This would provide fiscal relief to local CSA programs already accepting responsibility for placements via CSA Parental Agreements. The exact fiscal impact of this option is not presently available.
10. Establish policies to maximize the use of Medicaid to pay for supplemental educational services provided in a residential treatment facility and specified in a child's IEP (e.g., speech therapy, occupational therapy, applied behavior analysis) to maximize federal participation.
11. Request DMAS and other appropriate entities to examine the "family of one" eligibility process. This process allows families to place their children prior to review by Magellan or a local CSA team and then requires an approval process once the child is already in placement.
12. For families seeking to establish Medicaid eligibility as a "family of one," establish procedures through which the local DSS eligibility staff provide information on the local CSA process (see Option 4 above) and with appropriate consent by the parent, make a referral to the local CSA team.

13. If PRTFs accept admissions without provisions for funding of educational services, the PRTF should accept the financial burden of those services.
14. Defer further action until implementation and assessment of the new DMAS regulations. See how many local CSA teams sign on to be the independent certification team.

For Discussion Only

Attachment B

Work Group Members

Name	Title	Representing
Janet Bessmer	CSA Coordinator, Fairfax County	Virginia Association of Counties
Karen Reilly-Jones	CSA Coordinator, Chesterfield County	Virginia Association of Counties
Katie Boyle	Director of Government Affairs	Virginia Association of Counties
Phyllis Savides	Director, Charlottesville Department of Social Services	Virginia Municipal League
Rebecca Vinroot	Director, James City County Department of Social Services	Virginia Municipal League
Lesley Abashian	CSA Coordinator, Loudoun County	CSA Coordinators Network
Mills Jones	CSA Coordinator, Goochland County	CSA Coordinators Network
Pamela Kestner	Deputy Secretary	Office of the Secretary of Health and Human Resources
Rachel Teagle	Children's Services Supervisor, Middle Peninsula-Northern Neck CSB	Virginia Association of Community Services Boards
Jennifer Faison	Executive Director	Virginia Association of Community Services Boards
Bill Phipps	General Manager	Magellan of Virginia
Susie Clare	Policy and Planning Specialist	Virginia Department of Medical Assistance Services
Pat Haymes	Director, Office of Dispute Resolution and Administrative Services	Virginia Department of Education
Janet Lung	Director, Office of Child and Family Services	Virginia Dept. of Behavioral Health and Developmental Services
Mike Triggs	CEO, the Hughes Center	Virginia Coalition of Private Provider Associations
Bill Elwood	Executive Director	Virginia Coalition of Private Provider Associations

Attachment C

**Projected Fiscal Impact (Updated August 2016)
Funding Non-CSA Medicaid Parental Placements in
Psychiatric Residential Treatment Facilities (Level C)**

	B	C	D	E
	Level C Non-CSA Placements	Average Educational LOS per Youth (Days)	Average Per Diem Education Cost	Total Educational Cost
FY2015	512	142.6	\$ 160	\$ 11,679,451
FY2016	628	158.9	\$ 160	\$ 15,969,143
			Average Annual Cost	\$ 13,824,297
			State Share @67%	\$ 9,262,279
			Local Share @ 33%	\$ 4,562,018

Column Descriptors and Data Sources

B # of Level C Non-CSA Placements (Magellan)

C Average Length of Stay in Facility X .71 (5 days out of 7) (Magellan)

D Derived from CSA Service Fee Directory and averages "regular" education, special education and Intellectual Disability Special Education rates

E Total Cost Includes Educational Fees Only

Local Medicaid Match

	B	C	D	E
	Level C Non-CSA Placements	Average LOS per Youth (Days)	State Share of Medicaid Per Diem Rate	Total Local Medicaid Share @41.2%
FY2015	512	199.6	\$ 196.75	\$ 8,284,045
FY2016	628	222.5	\$ 196.75	\$ 11,326,654
			Average Annual Cost	\$ 9,805,349

Column Descriptors and Data Sources

B # of Level C Non-CSA Placements (Magellan)

C Average Length of Stay in Facility(Magellan)

D Maximum allowable daily Medicaid rate

E Total Local Medicaid Match ((BxCxD) x.412)

Total Average Local Fiscal Impact \$ 14,367,367

Total Average State Fiscal Impact (\$ 543,000)

For Discussion Only

BYLAWS
State and Local Advisory Team for the Children's Services Act

ARTICLE I – Name

The name of this entity shall be the “State and Local Advisory Team” hereinafter referred to as the “team”.

ARTICLE II – Purpose and Powers

The team was created by the 1992 General Assembly of the Commonwealth of Virginia as the State Management Team as set forth in Chapter 46 Section 2.1-747 of the Code of Virginia of 1950. The 2000 General Assembly renamed the team as the State and Local Advisory Team and modified its duties. Its activities shall be in all respects conducted in accordance with Virginia law and regulations.

In accordance with Section 2.2-5201 of the Code of Virginia the team has developed bylaws to govern its operations which have been approved by the State Executive Council, hereinafter referred to as the “council.”

Specifically, the team was established to better serve the needs of troubled and at-risk youths and their families by advising the council on managing cooperative efforts at the state level and providing support to community efforts. Pursuant to Section 2.2-5202, the team may:

1. Advise the council on state interagency program policies that promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;
2. Advise the council on state interagency fiscal policies that promote and support cooperation and collaboration in the provision of services to troubled and at-risk youths and their families at the state and local levels;
3. Advise state agencies and localities on training and technical assistance necessary for the provision of efficient and effective services that are responsive to the strengths and needs of troubled and at-risk youths and their families; and
4. Advise the council on the effects of proposed policies, regulations and guidelines.

ARTICLE III – Membership and Terms

The team shall be appointed by and be responsible to the council as set forth in Section 2.2-5201, Code of Virginia. The team shall include one representative from each of the following state agencies: the Department of Health, Department of Juvenile Justice, Department of Social Services, Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services and the Department of Education. The team shall also include a

parent representative who is not an employee of any public or private program ~~which that~~ serves children and families and who has a child who has received services that are within the purview of the CSA; a representative of a private organization or association of providers for children's or family services; a local Children's Services Act coordinator or program manager; a juvenile and domestic relations district court judge; a representative who has previously received services through the Children's Services Act, to be appointed by the Governor with recommendations from entities including the Departments of Education and Social Services and the Virginia Chapter of the National Alliance on Mental Illness; and one member from each of five different geographical areas of the Commonwealth who is representative of one of the different participants of community policy and management teams. The non-state agency representatives shall be recommended by the statewide associations and/or organizations that represent families, private providers, CSA Coordinators, juvenile and domestic relations district court judges, and directors of the local child-serving agencies (social services, schools, court service units, community service boards, and health). Each organization and/or association may recommend up to two alternates. The primary representative shall have primary responsibility for full participation. The non-state agency members shall serve staggered terms of not more than three years, such terms to be determined by the council. Each alternate shall also be appointed by the council and shall serve the same term as the member.

Any person serving on the team who does not represent a public agency shall file a statement of economic interests as set out in Section 2.2-3117 of the State and Local Government Conflict of Interests Act (Section 2.2-3100 et seq.). Persons representing public agencies shall file such statements if required to do so pursuant to the State and Local Government Conflict of Interests Act.

ARTICLE IV – Duties of Membership

The state agencies represented on the team shall provide administrative support for the team in the development and implementation of the collaborative system of services and funding authorized by Chapter ~~46 52~~ of the Code of Virginia, ~~1950, as amended~~. This support shall include, but not be limited to, the provision of timely fiscal information, data for client- and service-tracking, and assistance in training local agency personnel on the system of services and funding established in the aforementioned chapter.

Official positions regarding team policy and procedure shall be established and approved by a majority vote of the team. Team members should be cognizant of these positions and reflect them when appropriate while representing the team at public meetings and functions.

ARTICLE V – Officers

The team shall annually elect a chair from among the local government representatives, including the members who are representatives of one of the different participants of community policy and management teams and the local children's services act coordinator or program manager. The chair shall be responsible for convening the team and presiding over all team meetings, setting the agenda, making assignments, and serving as a voting member of principal- ~~liaison to~~ the council. The team shall also annually elect a vice-chair. In the absence of the chair,

| the vice-chair will assume the role of the chair with all powers and responsibilities. The Executive Director of the Office of Children's Services (OCS) is responsible to arrange for recording and producing minutes from each meeting, preparing correspondence when required, and serving as the official record keeper for the team.

DRAFT

ARTICLE VI – Election of Officers

A nominating committee for the selection of officers for the next fiscal year shall be appointed by the chair no later than the ~~penultimate April~~ meeting of the team in any given fiscal year. It shall be the duty of the nominating committee to nominate candidates for the offices of chair and vice-chair and to report these nominations no later than the ~~May-final~~ meeting of the team in any fiscal year. Election of officers shall occur at the ~~final~~ meeting held in the fiscal year. Prior to the election additional nominations from the floor shall be permitted for all offices (provided the nominee consents). Officers shall assume office July 1. In the event that appointments to the team are delayed, the team may modify this schedule and may appoint an interim chair.

The term of office shall be for one year. Officers shall serve until such time as their term expires or a successor is elected, whichever last occurs. No officer may serve more than two consecutive terms in the same office. The election shall be by ballot if there is more than one nominee for the same office. A quorum must be present and voting in order to constitute an election.

In the event a vacancy occurs in one of the elected offices, the vacancy shall be filled by a special election for the unexpired term by majority vote of all team members present at the first meeting following the announcement of the vacancy or as soon thereafter as possible.

ARTICLE VII – Meetings

A meeting of the team occurs when a majority of the team membership sits as a body or as an informal assemblage, wherever held. Minutes shall be taken of all meetings.

All meetings shall be conducted in an orderly manner subject to the rulings of the presiding officer.

An annual meeting schedule for the coming year shall be set ~~in~~ at the final meeting of any fiscal month of July of each year.

Regular meetings of the team and executive committee shall be held as described or published on the Commonwealth Calendar, and at a time and location convenient to members.

Regular meetings of the team and executive committee are open to the public and all interested parties.

Special meetings shall be convened at the discretion of the chair as the need arises, and at the written request of at least two members of the team.

The presence of a majority of the team membership shall constitute a quorum. When less than a quorum is present, meetings may be held for purposes of information sharing, determining team business, etc., but in no instance may any voting take place with less than a quorum present.

All decisions regarding the establishment and implementation of team policy and procedure, including all motions presented and acted upon, will be accomplished by a majority vote of the membership as so signified by the chair, and recorded by the Executive Director of OCS.

Members or designated alternates must be present to record their vote. Each state agency member and non-state agency member shall have one vote by the primary member or designated alternate. All questions of parliamentary procedure and voting on all motions and amendments shall be governed by the guidelines as set forth in the latest edition of Robert's Rules of Order.

Individual members will endeavor to attend all officially called or scheduled meetings of the team, and when unable to be present shall be represented by their designated alternate, who shall act with all the authority of the appointed member, including the right to vote on all matters coming before the team.

All notice of meetings and minutes will be distributed to the membership prior to the convening of the following or subsequent meeting.

ARTICLE VIII – Executive Committee, Purpose, Function and Membership

The executive committee shall be composed of the chair and vice-chair. The Executive Director of OCS shall serve in an ex-officio capacity. The immediate past chair may serve as ex-officio, by action of the team.

The meetings of the executive committee will be open to the public and published as appropriate. Team members are invited to attend executive committee meetings.

The purpose of the committee shall be to enhance the efficiency and effectiveness of the work of the team by:

1. Establishing the agenda, scheduling the meetings of the team and managing the flow of the team and distribution of work;
2. Monitoring the progress of team committees on assigned tasks and integrating the work of various team committees through coordination with team committee chairs;
3. Serving as a facilitator by reviewing and making recommendations on options to resolve a lack of consensus on issues under consideration by the team;
4. Assuring representation of the team at all meetings of the council; and
5. Representing the team in matters that cannot be addressed at regular meetings of the team. This responsibility shall not extend beyond existing policies, procedures or decisions previously made or established by the team.

ARTICLE IX – Committees

Committees may be formed by the chair as required, after appropriate consultation with the team membership. The team shall appoint a committee chair and an acceptable number of committee members. Each committee may be dissolved at the discretion of the team chair once its appointed task is completed.

ARTICLE X – Notice and Waiver of Notice

Any notice required to be given by these Bylaws may be given by electronic mail, mailing or delivering the same to the person entitled thereto at his or her address recorded with the Executive Director of OCS and such notice shall be deemed to have been given at the time of such mailing or delivery. Any notice required by these Bylaws to be given may be waived by the person entitled to such notice.

ARTICLE XI – Amendments

These Bylaws may be amended at any regular meeting of the team by an affirmative vote of a majority of the team members, provided that the membership is notified in writing of any proposed amendment to said Bylaws prior to the convening of the meeting when such amendment is discussed and acted upon. The Bylaws shall be revised by the team or an appointed subcommittee of the team as required but no less than once every two years from the date of their adoption, and provided that all amendments to these Bylaws must be approved by the council.

ARTICLE XII – Severability

It is hereby declared to be the intention of the team that the articles, paragraphs, sentences, clauses and phrases of these Bylaws are severable; and if any phrase, clause, sentence, paragraph or article of these Bylaws shall be determined by an administrative agency or court of competent jurisdiction to be in violation of the laws of the Commonwealth of Virginia or the United States of America, of no effect, but the remaining phrases, clauses, sentences, paragraphs and articles shall remain in full effect.

The foregoing Bylaws of the State and Local Advisory Team for the Children's Services Act were duly adopted by the State and Local Advisory Team on August 4, 2016 and approved by the State Executive Council on September 15, 2016.

Chair, State Executive Council

Chair, State and Local Advisory Team

Date: _____

Date: _____



Office of
Children's Services

Recommendations from the State and Local Advisory Team on the Use of State Pool Funds for Wrap Around Services for Students with Disabilities

Response to the Virginia
Commission on Youth

State Executive Council for Children's Services
September 15, 2016



Office of
Children's Services

Background

- *The Use of Federal, State, and Local Funds for Private Educational Placements for Students with Disabilities*
 - Two-year Virginia Commission on Youth (COY) study completed in 2015
 - Specific request made to the SEC to “revisit existing policy restrictions and budgetary constraints with CSA state pool funds for wrap around services for students with disabilities.”



Definition

- Wrap around funds are defined by the SEC (Policy 4.1.3, 2011) as: “non-residential services in the home and community for a student with a disability when the needs associated with his/her disability extend beyond the school setting and threaten the student’s ability to be maintained in the home, community, or school setting.”



Funding

- The Appropriation Act, beginning in FY2011, allocated \$2.2 million in state general funds for these wraparound services.
- The Act also specified that all services in the public schools be at the base locality match rate.
 - The use of CSA funds for services in the public schools for students with disabilities was eliminated subsequent to a directive from the DOE in January 2010.
 - The match rate for the newly defined wraparound services was not re-examined.



Utilization

- The average utilization of the state appropriation for wrap around funds (FY2013-2015) was 57%, with 52 percent of localities drawing down and using the funds.
- An average of 403 students per year were served.
- FY2016 data, while incomplete, is currently consistent with prior years.



OCS Process

- At the beginning of each fiscal year, all localities are proportionally allocated a share of the \$2.2 million.
- Each locality must submit a single page declaration of their intent to utilize these funds.
- At the end of the second quarter of each year, OCS analyzes and reallocates funds that have not been "claimed" by localities and attempts to do so throughout the end of the fiscal year.



Office of
Children's Services

Specific Request from the COY

Recommendations to improve utilization and access to "wrap around funds," including:

- Whether the community-based match rate could be utilized;
- Parental co-payment policies for services not included in the IEP; and
- The prohibition of using funds for non-educational services provided by school employees.

7

Empowering communities to serve youth



Office of
Children's Services

Process

- COY request discussed at the March 2016 SEC meeting
 - SEC provided with a briefing paper
 - SEC requested that the State and Local Advisory Team (SLAT) address this request and make recommendations to the SEC
 - Over the course of three meetings and through a survey, SLAT has arrived at several recommendations for the SEC's consideration

8

Empowering communities to serve youth



SLAT Survey (see handout)

- Three audiences:
 - CSA (CPMT and FAPT members) – 210 responses
 - LEA Special Education Directors – 118 responses
 - Parents of SWD – 173 responses
- Targeted questions about general awareness, specific knowledge and local utilization of wrap around funds and possible barriers to use
- Results utilized to inform recommendations



Recommendations

1. The SEC should re-categorize the wrap around funds to the lower, community-based match rate.
2. No action should be taken on the parental co-payment issue.
3. No action should be taken on the use of school personnel to provide non-educational services.
4. The OCS should lead an effort to implement an educational program to inform various stakeholders of the guidelines and possible uses of these funds.



Change the Match Rate

- The definition of the wrap around funds is congruent with other services in the community-based match rate category.
- The need for local matching funds was cited in the survey as a major contributing factor to underutilization.
- Prior to 2011, these funds were at the community-based rate.
- SEC establishes the match-rate categories for various services. This change would need to be opened for public comment through the new SEC Policy 2.4.
- Adoption of this recommendation could potentially lead to overall decrease in "buying power," given lower local matching contributions.



Parental Co-Payments

- §2.2-5206.3 only requires that CPMTs "establish policies to assess" parental ability to contribute and utilize a "sliding fee scale based on ability to pay."
 - This allows localities to set their own expectations for parental contributions
- The SLAT process did not reveal that this was a significant barrier to service utilization



Use of School Personnel

- Activities of school personnel are under the jurisdiction of the LEA.
 - As long as the services do not occur in the school in contradiction to DOE guidance, LEAs have flexibility in utilizing their employees
 - With LEA approval, school personnel can work as contractors to private providers to deliver wrap around services
- The SLAT process did not reveal that this was a significant barrier to service utilization



Additional Recommendations

- The OCS should implement a plan to educate state and local partners about wrap around funding to include:
 - Clarification of eligibility
 - Types of community-based services allowed
 - Clarification of parental co-payment requirements
 - Process for localities to access the allocated funds
 - Value in early referral of SWD to CSA prior to IEPs for private placements



Additional Observation

- Services such as applied behavior analysis (ABA), which might be appropriate community-based services for many students with disabilities (especially those on the autism spectrum), are not available in all localities due to lack of trained workforce and low demand in rural areas.

Report by the State and Local Advisory Team (SLAT) to the State Executive Council for Children's Services Regarding Barriers to the Use of Special Education Wraparound Funds

The State Executive Council (SEC) requested the State and Local Advisory Team (SLAT) to provide recommendations to respond to the Virginia Commission on Youth to address policy and budgetary constraints to the use of Special Education Wraparound funds appropriated through the Children's Services Act.

The SLAT engaged in discussion of these questions over several meetings and conducted a survey of the Special Education Directors in the local school divisions, CSA stakeholders (Community Policy and Management [CPMT] and Family Assessment and Planning Team [FAPT] members), and parents of students with disabilities. After consideration of the information gathered, the SLAT agreed to the following recommendations at its August 4, 2016 meeting.

Recommendations in Response to Specific Requests of the Commission on Youth

1. Can the community match rate be utilized for Special Education Wraparound services?

The SLAT recommends that the SEC move the Special Education Wraparound funds to the community-based match category.

Background and Rationale:

In 2009, the State Executive Council assigned all services funded through the CSA to one of three local match rate categories: base rate, congregate care (25% above the base rate) and community-based (50% below the base rate). The funds that are now known as Special Education Wraparound were initially assigned to the community-based match grouping. Due to state budget constraints in FY2011, these services were moved to the base match rate and other restrictions were imposed to address budgetary and programmatic concerns. The Appropriation Act (Item 285.C. 3.e.) specifies that "all non-Medicaid services in the public schools after July 30, 2011 shall equal the fiscal year 2007 base." As the Special Education Wraparound funds are the successor of funds used for services in the public schools, action by the General Assembly, through the Appropriation Act, to allow the funds to be assigned to the community-based match rate would be required.

The nature of the services provided through the Special Education Wraparound category are limited to those provided in the community-setting and are indistinguishable from the community-based services in the lower match rate grouping. Data collected by the SLAT suggests that the need for local government to contribute matching funds at the base match rate is a major contributing factor to the underutilization of Special Education Wraparound funds.

Possible Impact:

The annual appropriation for Special Education Wraparound is \$2.2 million. As these funds are specifically delineated and limited in the Appropriation Act, this recommendation will not result in any state expenditure above the appropriated amount.

One factor to consider is that lowering the match rate will result in less overall funding being available in the Special Education Wraparound pool. At the base match rate, the state share is 65% resulting in a total pool of funds of \$3.4 million. Should the match rate be reduced to the community-based category, the state share will increase to 81.5% resulting in a total pool of funds of \$2.7 million. Should the appropriated funds be (more) fully utilized and the state share remain capped, localities presently utilizing these funds at a high rate, could see overall “purchasing power” reduced as a result of this proposed change.

2. Existing parental co-payment policies for Special Education Wraparound services not included in the individualized education program (IEP)

The SLAT declined to make a recommendation regarding this issue except that the guidelines for assessing and instituting parental co-payments should be included in the proposed educational effort as described in recommendation 4 below.

Background and Rationale:

The Code of Virginia (§2.2-5206.3) requires each CPMT to “establish policies to assess the ability of parents or legal guardians to contribute financially to the cost of services to be provided and, when not specifically prohibited by federal or state law or regulation, provide for appropriate parental or legal guardian contribution, utilizing a standard sliding fee scale based upon ability to pay.” The specifics of such policies, including when such parental contributions may be waived (e.g., if the contribution might represent a barrier to access of needed services) are at the discretion of the local CPMT. Additionally, data gathered by the SLAT did not indicate that parental co-payment requirements represented a meaningful barrier to access to the Special Education Wraparound funding and services.

3. Prohibition on using funds for non-educational services provided by school employees

The SLAT declined to make a recommendation regarding this issue.

Background and Rationale:

The activities of school personnel are under the jurisdiction of the local educational agency (LEA). If school board policy allows contracted employees to provide non-educational, community based services as part of their employment, CSA is silent as to this action; however, CSA funds cannot be utilized to offset or supplant the contracted salaries of LEA employees who may be approved to provide non-educational services. Additionally CSA funds cannot be utilized to support any services provided within the public school setting for students with an Individualized Educational Program (IEP). School division employees who are approved by the LEA to undertake outside employment are eligible to receive funding through the CSA for provision of special education wraparound services.

Additional Recommendations

4. The State Executive Council should direct the Office of Children’s Services (OCS) to collaborate with appropriate stakeholders to develop and implement a plan to educate state and local partners about issues related to the Special Education Wraparound funds including:

- Clarification of which students are eligible for access to these funds;
- The type of community-based services allowable within this funding stream;
- Clarification of the parental co-payment requirements as described in Recommendation 2. (above);
- The process for localities to request allocations for Special Education Wraparound funds from the OCS;
- Early intervention practices (Encouraging local schools to refer students with disabilities for community-based interventions via CSA early, before a private education placement becomes the least restrictive environment).

5. The SLAT also discussed and noted (without a specific recommendation) that many of the community-based services necessary to assist students with disabilities (e.g., Applied Behavioral Analysis) are unavailable in many localities due to lack of sufficient trained workforce and low demand in rural areas, making it difficult to attract and support qualified providers. The SLAT encourages jurisdictions collaborate regionally to enhance capacity and availability of services. Note: The Virginia Association for Behavioral Analysis is presently compiling a geographically based inventory of the availability of Behavior Analysts in Virginia.

Surveys on the Use of Children's Services Act Special Education Wraparound Funds

Howard Sanderson
Office of Children's Services
July 1, 2016 (Updated)

Three Surveys Conducted

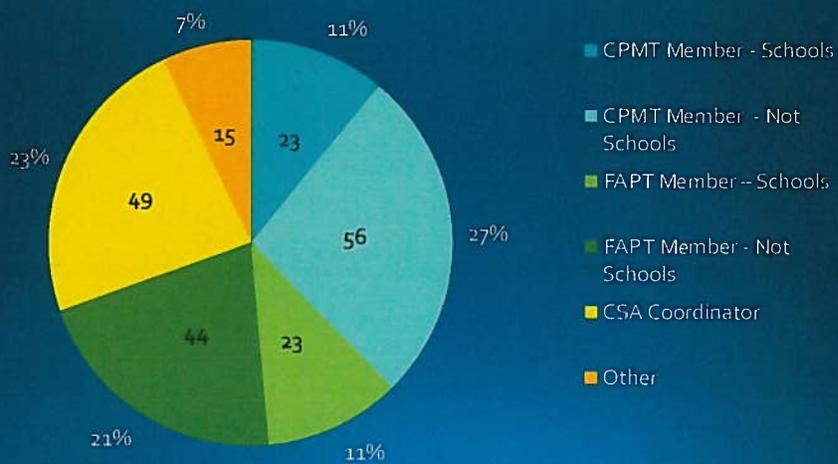
General - distributed via CPMT chairs and
CSA coordinators

Schools - sent to special education
administrators

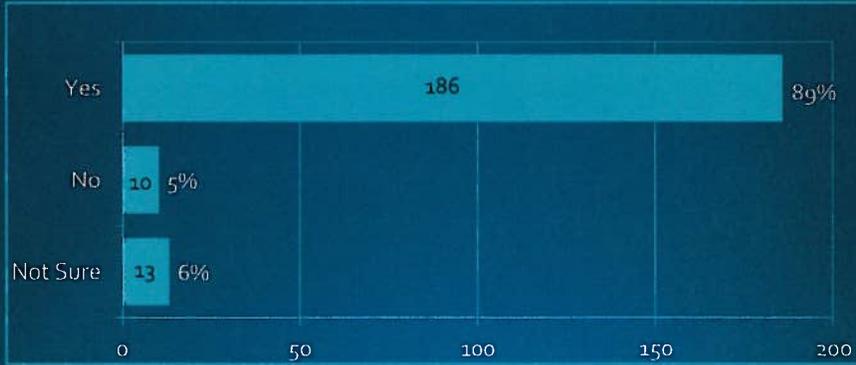
Parents - sent to parents of students with
disabilities

General

Approximately Half of the Respondents are Either Non-School CPMT Members or CSA Coordinators
(N = 210)



Eighty-nine Percent of Respondents are Aware of the Availability of CSA Special Education Wraparound Funds (N = 209)



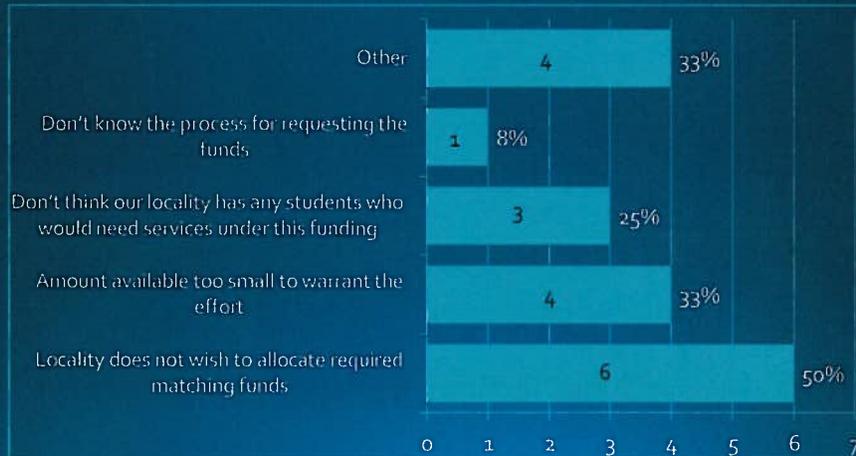
"Are you aware of the availability of designated Children's Services Act funds (Special Education Wraparound or WRAP) to provide home and community based services for students with educational disabilities?"

About Two-thirds of Those Surveyed Indicated that Their Locality Requests Wraparound Funds (N = 197)



"Does your locality request the designated funds from the Office of Children's Services (OCS)?"

The Top Reason Given that Localities Do Not Request Designated Funds is Not Wishing to Allocate the Required Matching Funds (N = 12)



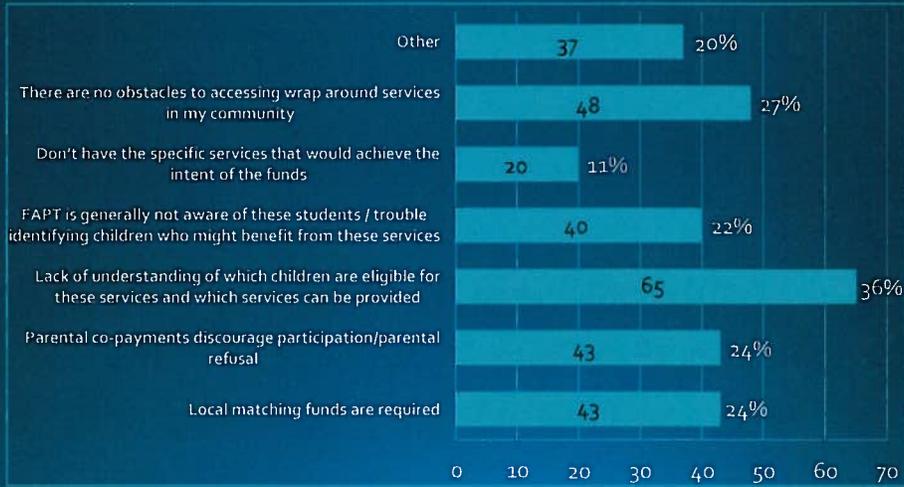
"Please indicate the reason(s) why your locality does not request the designated funds: (Check all that apply)"

The Top Perceived Benefit of Utilizing Wraparound Funds is the Ability to Help Meet the Student's Needs While Keeping Them in a Less Restrictive Environment (N = 169)



"If your locality utilizes the Wraparound funds, what are the perceived benefits? (Check all that apply)"

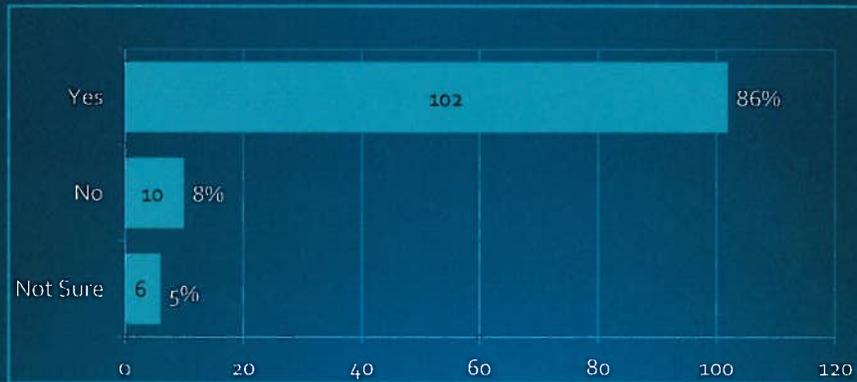
The Barrier Most Frequently Identified is Lack of Understanding of Which Children are Eligible for These Services and Which Services can be Provided (N = 181)



"What are barriers to the use of these funds in your locality? (Check all that apply)"

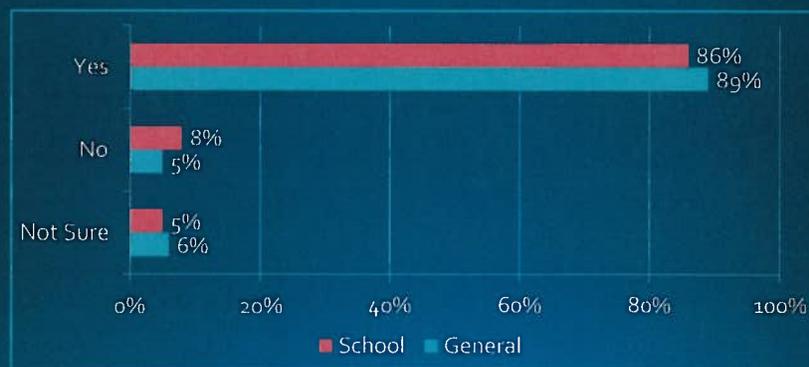
Schools

Eighty-six Percent of Respondents are Aware of the Availability of CSA Special Education Wraparound Funds (N = 118)



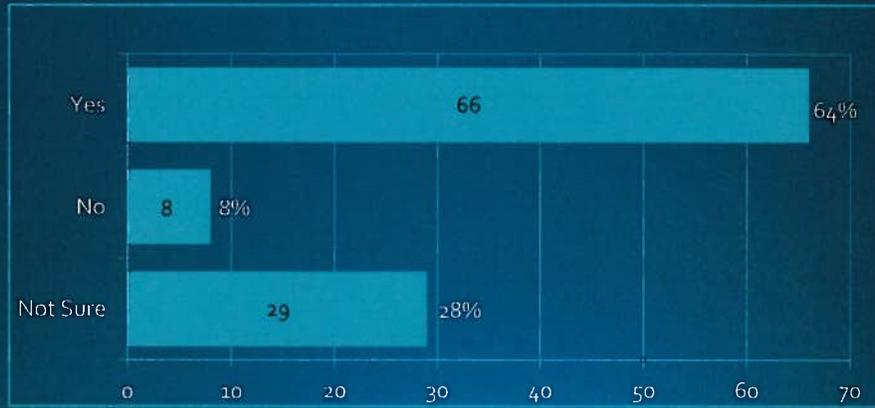
"Are you aware of the availability of designated Children's Services Act funds (Special Education Wraparound or WRAP) to provide home and community based services for students with disabilities?"

There is Little Difference Between the General and School Surveys Regarding Awareness of the Availability of Special Education Wraparound Funds



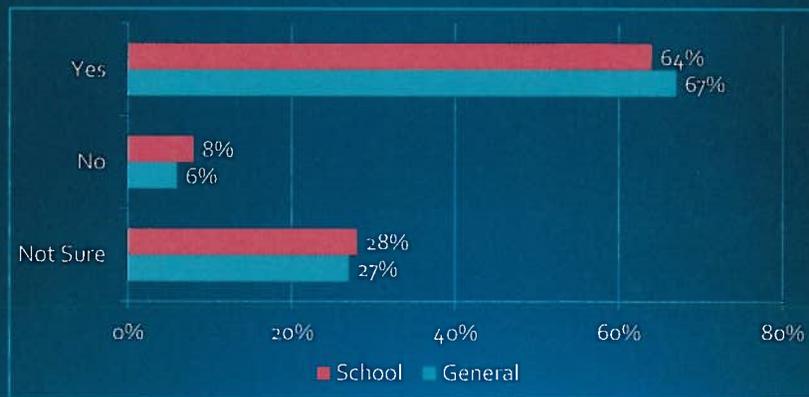
"Are you aware of the availability of designated Children's Services Act funds (Special Education Wraparound or WRAP) to provide home and community based services for students with educational disabilities?"

About Two-thirds of Schools Surveyed Indicated that Their Locality Requests Wraparound Funds (N = 103)



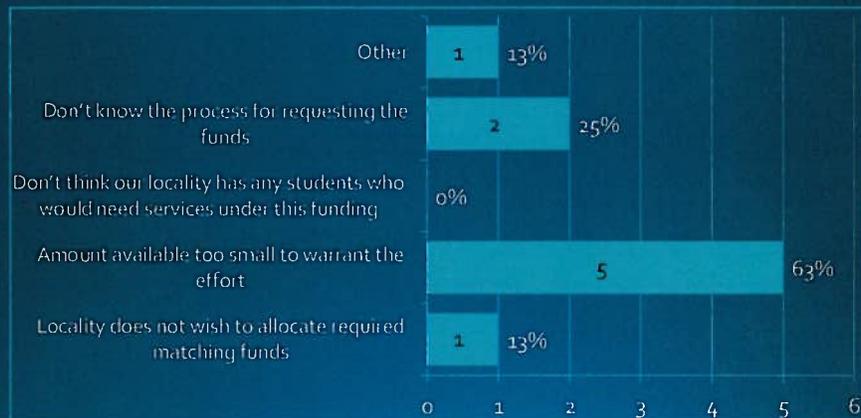
"Does your locality request the designated funds from the Office of Children's Services (OCS)?"

There is Little Difference Between the General and School Surveys Regarding Their Locality Requesting the Designated Funds



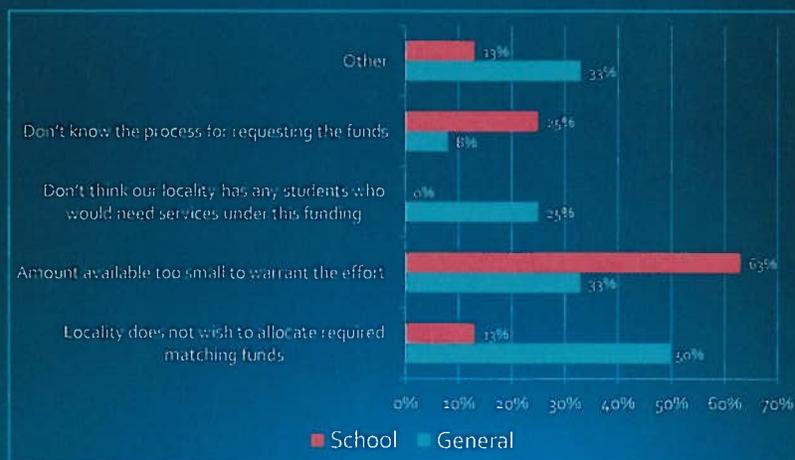
"Does your locality request the designated funds from the Office of Children's Services (OCS)?"

The Top Reason for Not Requesting the Designated Funds is that the Amount is Too Small for the Effort (N = 8)

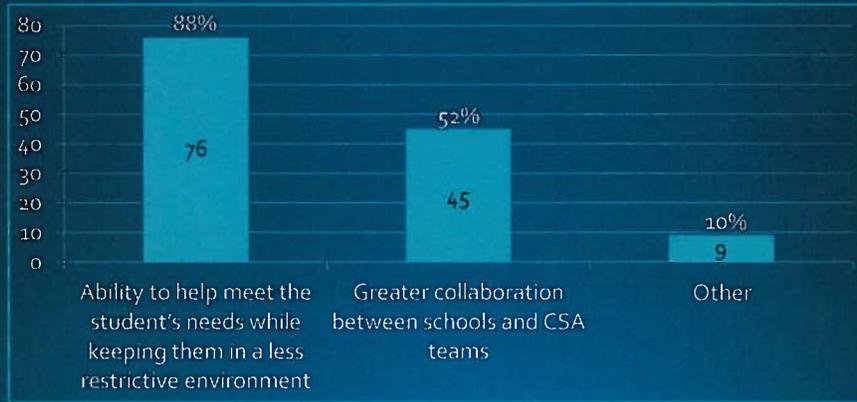


"Please indicate the reason(s) why your locality does not request the designated funds: (Check all that apply)"

Only Thirteen Percent of School Survey Respondents Compared to Half in the General Survey Indicated that Their Locality Not Wishing to Allocate Matching Funds was a Reason for Not Requesting Wraparound Funds

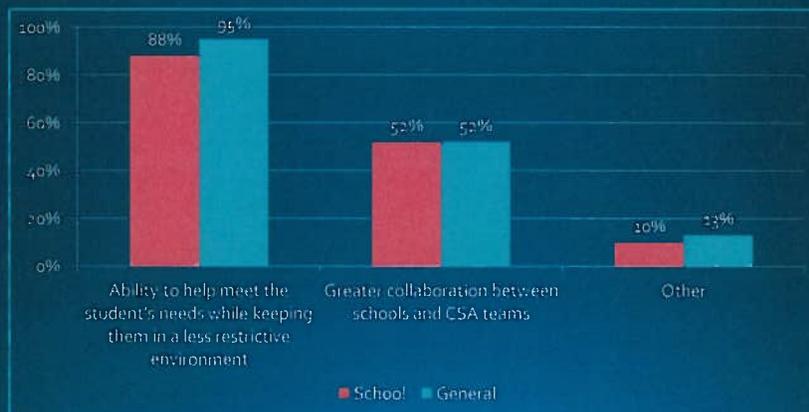


The Top Perceived Benefit of Utilizing Wraparound Funds is the Ability to Help Meet the Student's Needs While Keeping Them in a Less Restrictive Environment (N = 86)



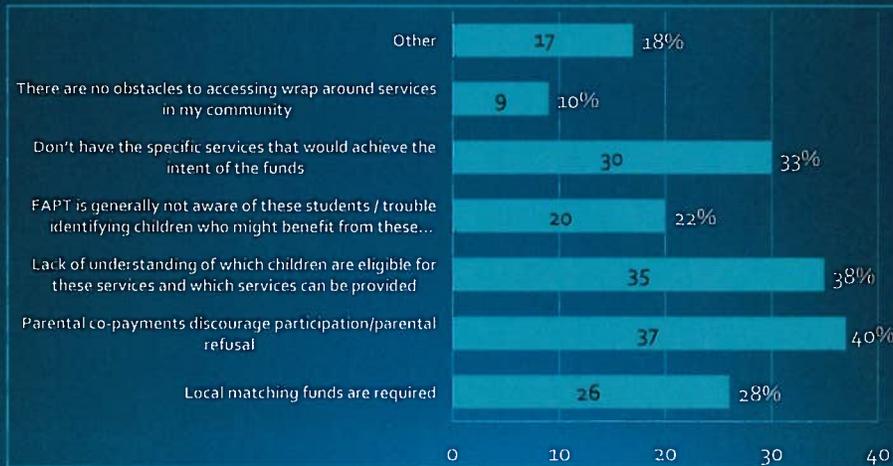
"If your locality utilizes the wraparound funds, what are the perceived benefits? (Check all that apply)"

Most School Survey Respondents Indicated that the Ability to Help Meet the Student's Needs While Keeping Them in a Less Restrictive Environment is a Perceived Benefit



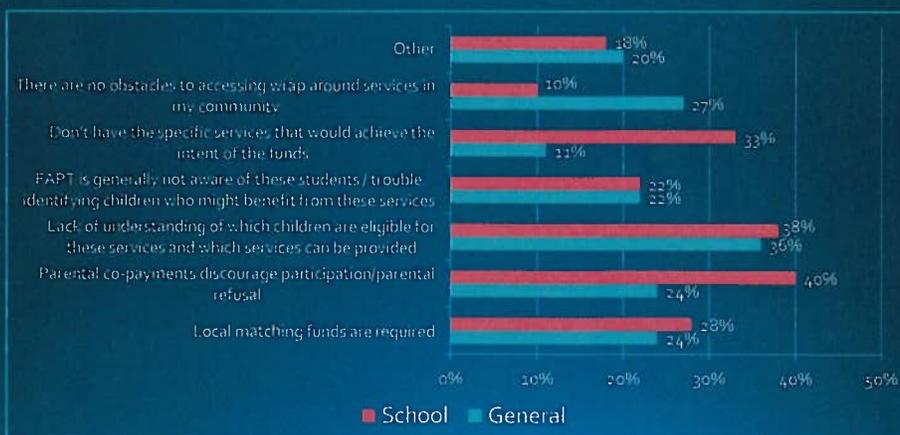
"If your locality utilizes the wraparound funds, what are the perceived benefits? (Check all that apply)"

Forty Percent of School Survey Respondents Chose Parental Co-payments as a Barrier to the Use of Wraparound Funds (N = 92)



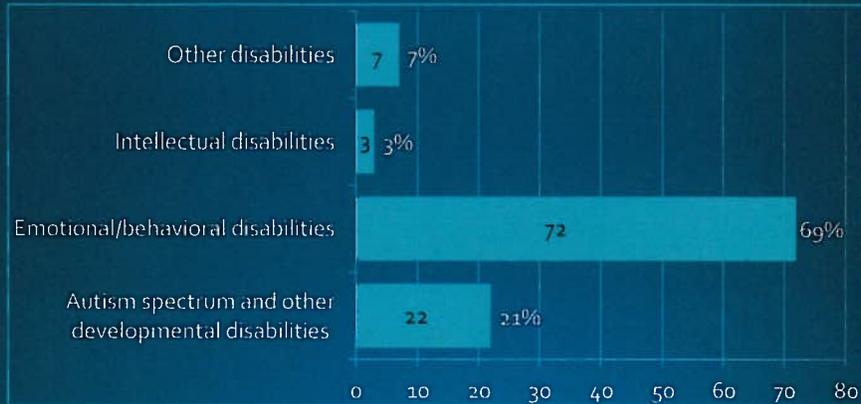
"What are barriers to the use of these funds in your locality? (Check all that apply)"

While Only Twenty-four Percent of the General Survey Respondents Specified the Same



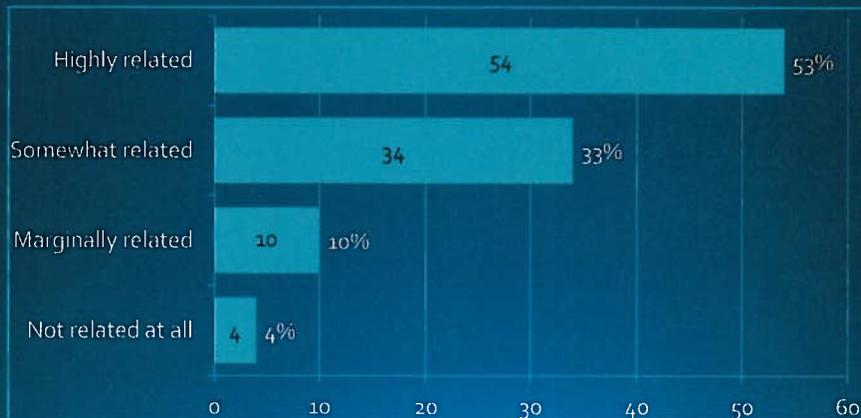
"What are barriers to the use of these funds in your locality? (Check all that apply)"

Emotional/behavioral Disability is the Most Common Educational Disability that Leads to IEP Placements in Private Day Programs (N = 104)



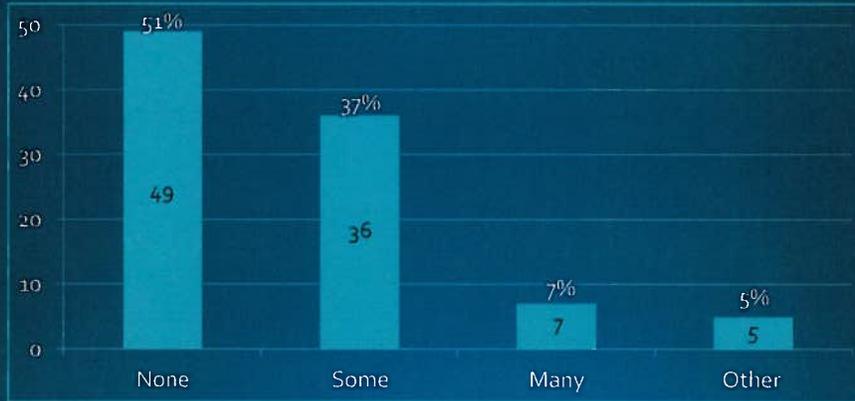
"The most common educational disability that leads to Individualized Education Program (IEP) placements in private day educational programs in your division is?"

Eighty-six Percent of Schools Indicated that Home/Environmental/Community Issues are Either Highly Related or Somewhat Related to Private Day Placements (N = 102)



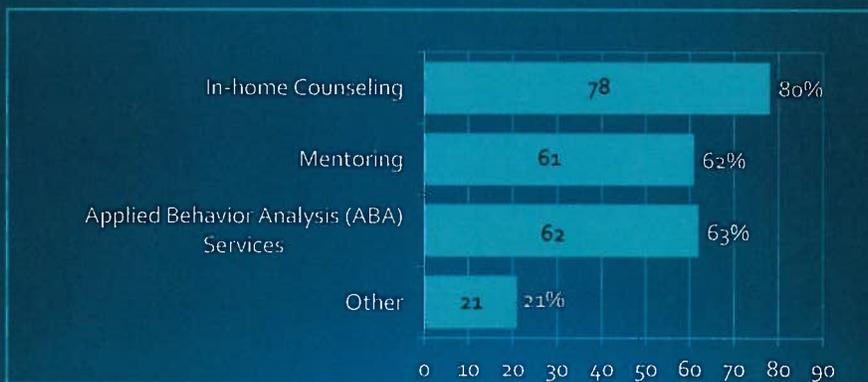
"To what extent are home/environmental/community issues related to placements in private day educational programs in your division?"

Over Half of the Respondents Indicated that None of the Private Day Placements in Their Locality Could have been Prevented by the Use of Wraparound Services (N = 97)



"In reviewing students with disabilities who have been placed in private day placements in your division in the past year, how many of these placements do you estimate could have been prevented by the use of wraparound services?"

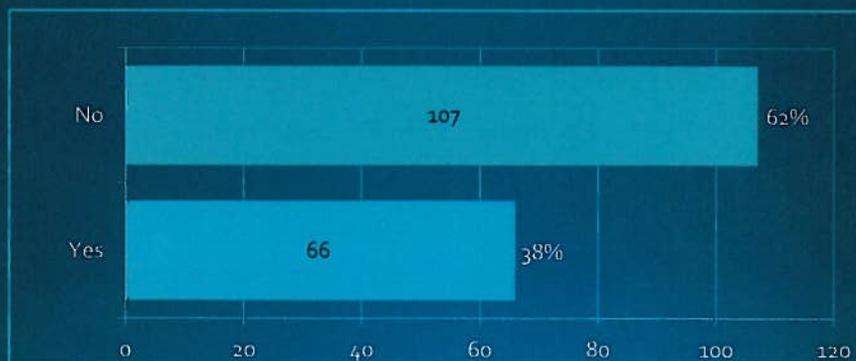
Eighty Percent of Those Surveyed Identified In-home Counseling as a Service that Could be Used to Prevent Private Day Placements of Students with Disabilities (N = 98)



"What specific kinds of wraparound services could be used to prevent a private day placement of a student with disabilities? (Check all that apply)"

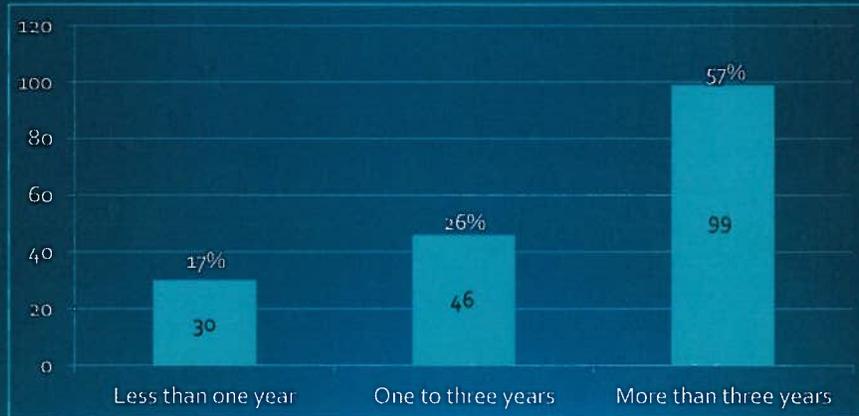
Parents

Thirty-eight Percent of Parents Indicated that Their Child is Receiving Services in a Private Day School or Residential Education Program (N = 173)



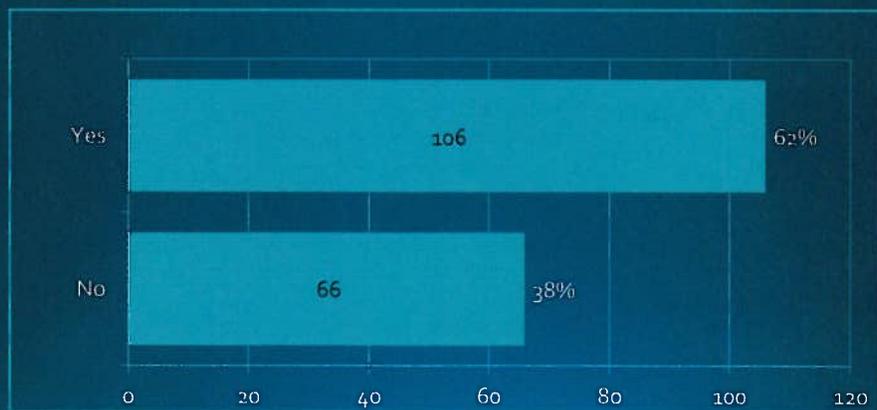
"Is your child receiving services in a private day school or residential education program?"

Fifty-seven Percent of Parents have been Involved with the Special Education Aspects of their Child's School for More than Three Years (N = 175)



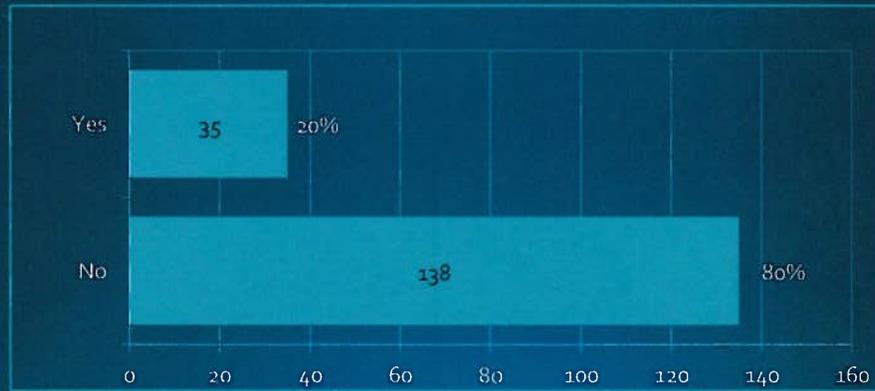
"How long have you been involved with the special education aspects of your child's school?"

Sixty-two Percent of Parents Surveyed are Aware of Other Services Available Besides Those Listed in Their Child's IEP (N = 172)



"Aside from services listed and provided in your child's IEP, are you aware of other services that might be available to support you and your child in your home and/or community?"

Only Twenty Percent have been Denied Services Due to Lack of Funding or Because They Would Have to Pay a Portion of the Costs and Could Not Afford it (N = 173)



"Are you aware of or have you been offered services, but then informed you couldn't proceed because of funding or because you would have to pay a portion of the costs and you could not afford that?"

"Is there anything else you would like us to know about this issue?" (N = 35)

Open-ended Question

Lack of knowledge/Need more information

Funding Issues