

AGENDA
State & Local Advisory Team (SLAT)
Children's Services Act

Thursday, April 7, 2016, 9:30 a.m. – 12:00 p.m.
Richmond Room
1604 Santa Rosa Road
Richmond, VA 23229

- 9:30 Introductions & Chair Remarks**
- Approval of February 2016 Minutes
- 9:40 Public Comment**
- 9:45 Executive Director's Report**
- General Assembly Update
 - Public Participation Policy – Public Comment Period
 - CANVaS 2.0 Update
 - Annual Conference Update
 - Report on New CSA Coordinator Academy
- 10:00 FY2017 OCS Training Plan**
- 10:20 Preview of eLearning Module 1: CSA for New Local DSS Employees**
- 10:50 Discussion of SLAT Work Plan Items**
- Proposed survey(s) regarding Special Education Wraparound funds
 - Barriers to the use of non-mandated funds
- 11:20 Review of Expiring SLAT Appointments**
- 11:25 Appointment of SLAT Nominating Committee**
- 11:35 Member Updates**
- 11:50 New/Other Business**
- 12:00 Adjourn**

2016 SLAT Meetings: June 2; August 4; October 6; December 1

**MINUTES – February 4, 2016
STATE & LOCAL ADVISORY TEAM (SLAT)
CHILDREN'S SERVICES ACT
Dining Hall, UMFS
3900 W. Broad Street
Richmond, VA**

Members Present: Ronald Belay, SLAT Chair, CPMT - CSU Representative; Cristy Corbin, Parent Representative; Shannon Updike, Private Provider Representative; Tamara Temoney, Ph.D., CPMT – LDSS Representative; Pam Fisher, DBHDS; The Honorable Frank Somerville, Juvenile and Domestic Relations District Court Representative; Karen Reilly-Jones, CSA Coordinators Network; Pat Haymes, DOE; Ivy Sager, CPMT – CSB Representative; Angela Neely, CPMT – School Representative; Beth Stinnett, DJJ; Carl Ayers, VDSS

Members Absent: Brian Campbell, DMAS

Guests and Staff Members Present: Kara Brooks, Brady Nemeyer, Mills Jones, Sydney Bullock, Claudine Saliba-Rawls, Ty Parr, Leah Mills, Penny Combs, Scott Reiner, Howard Sanderson, Marsha Mucha

Introductions and Chair Remarks

Ron Belay, SLAT Chair, called the meeting to order at 9:35 a.m. He welcomed members and guests. Introductions were made. Mr. Reiner reported that parent representative Cristy Gallagher had resigned from SLAT due to the serious illness of her daughter.

Approval of Minutes

The minutes of the October 1, 2015 meeting were approved on a motion by Pat Haymes, seconded by Shannon Updike and carried.

Public Comment

There was no public comment.

Executive Director's Report

Mr. Reiner reported on the following:

Final FY15 Cost Driver Analysis – A chart with CSA expenditures by category over the last four fiscal years was provided. Final total expenditures for FY15 totaled \$26M over those for FY14. Fiscal year 2015 expenditure increases were due in large part to an increase in the number of special education private day placements and the number of children served by CSA.

FY16 Legislative and Budget Update – Mr. Reiner reported that HB 369 would add the chair of SLAT to the membership of the SEC along with a representative who has previously received services through CSA.

The Governor's introduced budget includes \$18M in funding to cover the state share of CSA expenditures for FY16 that resulted from increased expenditures. This amount has also been included in the FY16-F618 biennial budget. MEL and funding was also included in the Governor's introduced budget to add two auditor positions within OCS.

Mr. Reiner also reported on other budget requests that were not included in the Governor's budget but have been requested by General Assembly members. Those amendments include funding to:

- Eliminate the local Medicaid match on residential placements and treatment foster care case management
- Increase in the general fund allocation to support local CSA administrative costs
- Provide 100% general funds to cover the cost of educational services for Medicaid members placed in psychiatric or residential facilities outside the CSA process. (Funding for two fiscal years while working on a permanent solution for funding of these services.)

Budget language has also been introduced that would direct the SEC to convene a work group to make recommendations to increase the use of CSA non-mandated funds for those involved in the juvenile justice system and/or long-term school suspension/expulsion.

Report – State Executive Council Workgroup – Mr. Reiner reported that, over the past several years, legislation had been introduced but not passed in the General Assembly to bring CSA under the Administrative Process Act. The 2015 Appropriation Act directed the Secretary of Health and Human Resources, in cooperation with the Secretary of Education to convene a work group to provide recommendations regarding the role of the SEC. SLAT members were provided a copy of the report.

Mr. Reiner noted that the work group recommended that the SEC remain a supervisory council, chaired by the Secretary of Health and Human Resources. They also recommended adding the chair of the State and Local Advisory Team (SLAT) as a voting member of the Council as well as adding a representative to the SEC and the SLAT who previously received services through CSA (as noted above).

He further reported that the SEC at its December 2015 meeting approved disseminating a "Notice of Intent to Develop Policy" for a public comment period. That public comment period ended February 1 and was favorable to the SEC developing a draft "Proposed Public Participation Policy" for the SEC. The proposed policy is being developed as part of the recommendations from the work group. The proposed policy will provide clear guidelines for public participation in the SEC's process of developing and adopting policy. The proposed guidelines will also address specific time frames for various stages in the process, expectations for public notice and public comments, and expectations for consideration of fiscal impact on local government. The proposed policy will be presented to the SEC at its March 2016 meeting for consideration of dissemination for a 60-day public comment period.

CSA Conference Update – The annual CSA Conference will be held April 27-28, 2016 at the Hotel Roanoke and Conference Center. Registration is now open. Tuesday afternoon, April 26, 2016, a special session will be held for CSA coordinators. Mr. Reiner also reminded members about the award recognitions that will be presented at the conference and requested their assistance in soliciting nominations.

Preview of New CSA Outcomes Dashboard – Mr. Reiner introduced Howard Sanderson, OCS Research Associate/Program Evaluator. Mr. Sanderson provided members with a demonstration of the prototype of the newly developed local outcomes dashboard. The local outcomes dashboard

Draft

utilizes the five existing performance measures from the CSA Executive Scorecard. Mr. Reiner and Mr. Sanderson also answered questions.

Members discussed the importance of educating stakeholders on how outcomes data can/should be utilized in a meaningful way. A demonstration of the application used to view locality performance on the five existing performance measures will be provided at the March 17, 2016 SEC meeting. The plan is to make the Outcomes Dashboard available on the CSA website.

Discussion of SLAT Work Plan

Mr. Reiner reported on potential areas of study for the SLAT work plan:

- Commission on Youth (COY) Study of the Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities – Mr. Reiner noted that members were provided a copy of the Executive Summary of the report. The full report is available on the Commission on Youth website. He further reported that one of the recommendations from the study was that the SEC revisit existing policy restrictions and budgetary constraints with CSA state pool funds for wrap around services for students with disabilities.

After discussion, Mr. Reiner asked that members consider the questions that need to be asked to address issues identified during discussion. Those questions should be submitted to Mr. Reiner by March 1. Once a list of final questions has been developed, members will be asked to solicit feedback from their particular constituencies. That feedback will then be offered to the SEC in the form of findings and recommendations from SLAT.

- Strategies to address goals for the FY16-FY18 Biennial Plan – The SEC and SLAT met jointly in December to discuss, develop and endorse goals and strategies for the FY16-FY18 biennium. Mr. Reiner noted several of the activities where SLAT members are already actively involved. SLAT will continue to work under the direction of the SEC to address areas of the Biennial Plan.

Mrs. Reilly-Jones, Chair of the SLAT Training Committee, reminded members to let the Training Committee know of particular training needs that they could address.

Committee Member Updates

Mr. Belay asked members to report on activities within their agencies and organizations. Members reported on the legislative session and noted upcoming conferences. Mr. Reiner asked that members send conference information to OCS for posting on the OCS Training Calendar. Members continue to work within their agencies, serve on workgroups and advocate through their associations for improvements to services and service delivery to the children, youth and families of Virginia.

New/Other Business

There was no new or other business to discuss.

Adjournment

There being no further business, the meeting adjourned at 12:00 p.m.

2016 SESSION

VIRGINIA ACTS OF ASSEMBLY – CHAPTER

An Act to amend and reenact §§ 2.2-2648 and 2.2-5201 of the Code of Virginia, relating to State Executive Council for Children's Services; state and local advisory team; membership.

[H 369]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2648 and 2.2-5201 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-2648. State Executive Council for Children's Services; membership; meetings; powers and duties.

A. The State Executive Council for Children's Services (the Council) is established as a supervisory council, within the meaning of § 2.2-2100, in the executive branch of state government.

B. The 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. The parent representatives shall be appointed by the Governor for a term not to exceed three years and neither shall be an employee of any public or private program that serves children and families. The Governor's appointments shall be for a term not to exceed three years and shall be limited to no more than two consecutive terms, beginning with appointments after July 1, 2009. Legislative members and ex officio members of the Council shall serve terms coincident with their terms of office. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments. Legislative members shall not be included for the purposes of constituting a quorum.

C. The Council shall be chaired by the Secretary of Health and Human Resources or a designated deputy who shall be responsible for convening the council. The Council shall meet, at a minimum, quarterly, to oversee the administration of this article and make such decisions as may be necessary to carry out its purposes. Legislative members shall receive compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive compensation for their services as provided in §§ 2.2-2813 and 2.2-2825.

D. The Council shall have the following powers and duties:

1. Hire and supervise a director of the Office of Children's Services;
2. Appoint the members of the state and local advisory team in accordance with the requirements of § 2.2-5201;
3. Provide for the establishment of interagency programmatic and fiscal policies developed by the Office of Children's Services, which support the purposes of the Children's Services Act (§ 2.2-5200 et seq.), through the promulgation of regulations by the participating state boards or by administrative action, as appropriate;
4. Provide for a public participation process for programmatic and fiscal guidelines and dispute resolution procedures

developed for administrative actions that support the purposes of the Children's Services Act (§ 2.2-5200 et seq.). The public participation process shall include, at a minimum, 60 days of public comment and the distribution of these guidelines and procedures to all interested parties;

5. Oversee the administration of and consult with the Virginia Municipal League and the Virginia Association of Counties about state policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund;

6. Provide for the administration of necessary functions that support the work of the Office of Children's Services;

7. Review and take appropriate action on issues brought before it by the Office of Children's Services, Community Policy and Management Teams (CPMTs), local governments, providers and parents;

8. Advise the Governor and appropriate Cabinet Secretaries on proposed policy and operational changes that facilitate interagency service development and implementation, communication and cooperation;

9. Provide administrative support and fiscal incentives for the establishment and operation of local comprehensive service systems;

10. Oversee coordination of early intervention programs to promote comprehensive, coordinated service delivery, local interagency program management, and co-location of programs and services in communities. Early intervention programs include state programs under the administrative control of the state executive council member agencies;

11. Oversee the development and implementation of a mandatory uniform assessment instrument and process to be used by all localities to identify levels of risk of Children's Services Act (CSA) youth;

12. Oversee the development and implementation of uniform guidelines to include initial intake and screening assessment, development and implementation of a plan of care, service monitoring and periodic follow-up, and the formal review of the status of the youth and the family;

13. Oversee the development and implementation of uniform guidelines for documentation for CSA-funded services;

14. Review and approve a request by a CPMT to establish a collaborative, multidisciplinary team process for referral and reviews of children and families pursuant to § 2.2-5209;

15. Oversee the development and implementation of mandatory uniform guidelines for utilization management; each locality receiving funds for activities under the Children's Services Act shall have a locally determined utilization management plan following the guidelines or use of a process approved by the Council for utilization management, covering all CSA-funded services;

16. Oversee the development and implementation of uniform data collection standards and the collection of data, utilizing a secure electronic client-specific database for CSA-funded services, which shall include, but not be limited to, the following client specific information: (i) children served, including those placed out of state; (ii) individual characteristics of youths and families being served; (iii) types of services provided; (iv) service utilization including length of stay; (v) service expenditures; (vi) provider identification number for specific facilities and programs identified by the state in which the child receives services; (vii) a data field indicating the circumstances under which the child ends each service; and (viii) a data field indicating the circumstances under which the child exits the Children's Services Act program. All client-specific information shall remain confidential and only non-identifying aggregate demographic, service, and expenditure information shall be made available to the public;

17. Oversee the development and implementation of a uniform set of performance measures for evaluating the Children's Services Act program, including, but not limited to, the number of youths served in their homes, schools and communities. Performance measures shall be based on information: (i) collected in the client-specific database referenced in subdivision 16, (ii) from the mandatory uniform assessment instrument referenced in subdivision 11, and (iii) from available and appropriate client outcome data that is not prohibited from being shared under federal law and is routinely collected by the state child-serving agencies that serve on the Council. If provided client-specific information, state child serving agencies shall report available and appropriate outcome data in clause (iii) to the Office of Children's Services. Outcome data submitted to the Office of Children's Services shall be used solely for the administration of the Children's Services Act program. Applicable client

outcome data shall include, but not be limited to: (a) permanency outcomes by the Virginia Department of Social Services, (b) recidivism outcomes by the Virginia Department of Juvenile Justice, and (c) educational outcomes by the Virginia Department of Education. All client-specific information shall remain confidential and only non-identifying aggregate outcome information shall be made available to the public;

18. Oversee the development and distribution of management reports that provide information to the public and CPMTs to help evaluate child and family outcomes and public and private provider performance in the provision of services to children and families through the Children's Services Act program. Management reports shall include total expenditures on children served through the Children's Services Act program as reported to the Office of Children's Services by state child-serving agencies on the Council and shall include, but not be limited to: (i) client-specific payments for inpatient and outpatient mental health services, treatment foster care services and residential services made through the Medicaid program and reported by the Virginia Department of Medical Assistance Services and (ii) client-specific payments made through the Title IV-E foster care program reported by the Virginia Department of Social Services. The Office of Children's Services shall provide client-specific information to the state agencies for the sole purpose of the administration of the Children's Services Act program. All client-specific information shall remain confidential and only non-identifying aggregate demographic, service, expenditure, and outcome information shall be made available to the public;

19. Establish and oversee the operation of an informal review and negotiation process with the Director of the Office of Children's Services and a formal dispute resolution procedure before the State Executive Council, which include formal notice and an appeals process, should the Director or Council find, upon a formal written finding, that a CPMT failed to comply with any provision of this Act. "Formal notice" means the Director or Council provides a letter of notification, which communicates the Director's or the Council's finding, explains the effect of the finding, and describes the appeal process, to the chief administrative officer of the local government with a copy to the chair of the CPMT. The dispute resolution procedure shall also include provisions for remediation by the CPMT that shall include a plan of correction recommended by the Council and submitted to the CPMT. If the Council denies reimbursement from the state pool of funds, the Council and the locality shall develop a plan of repayment;

20. Deny state funding to a locality, in accordance with subdivision 19, where the CPMT fails to provide services that comply with the Children's Services Act (§ 2.2-5200 et seq.), any other state law or policy, or any federal law pertaining to the provision of any service funded in accordance with § 2.2-5211;

21. Biennially publish and disseminate to members of the General Assembly and community policy and management teams a state progress report on comprehensive services to children, youth and families and a plan for such services for the next succeeding biennium. The state plan shall:

- a. Provide a fiscal profile of current and previous years' federal and state expenditures for a comprehensive service system for children, youth and families;
- b. Incorporate information and recommendations from local comprehensive service systems with responsibility for planning and delivering services to children, youth and families;
- c. Identify and establish goals for comprehensive services and the estimated costs of implementing these goals, report progress toward previously identified goals and establish priorities for the coming biennium;
- d. Report and analyze expenditures associated with children who do not receive pool funding and have emotional and behavioral problems;
- e. Identify funding streams used to purchase services in addition to pooled, Medicaid, and Title IV-E funding; and
- f. Include such other information or recommendations as may be necessary and appropriate for the improvement and coordinated development of the state's comprehensive services system; and

22. Oversee the development and implementation of mandatory uniform guidelines for intensive care coordination services for children who are at risk of entering, or are placed in, residential care through the Children's Services Act program. The guidelines shall: (i) take into account differences among localities, (ii) specify children and circumstances appropriate for intensive care coordination services, (iii) define intensive care coordination services, and (iv) distinguish intensive care

coordination services from the regular case management services provided within the normal scope of responsibility for the child-serving agencies, including the community services board, the local school division, local social services agency, court service unit, and Department of Juvenile Justice. Such guidelines shall address: (a) identifying the strengths and needs of the child and his family through conducting or reviewing comprehensive assessments including, but not limited to, information gathered through the mandatory uniform assessment instrument; (b) identifying specific services and supports necessary to meet the identified needs of the child and his family, building upon the identified strengths; (c) implementing a plan for returning the youth to his home, relative's home, family-like setting, or community at the earliest appropriate time that addresses his needs, including identification of public or private community-based services to support the youth and his family during transition to community-based care; and (d) implementing a plan for regular monitoring and utilization review of the services and residential placement for the child to determine whether the services and placement continue to provide the most appropriate and effective services for the child and his family.

§ 2.2-5201. State and local advisory team; appointment; membership.

The state and local advisory team is established to better serve the needs of troubled and at-risk youths and their families by advising the Council *and* by managing cooperative efforts at the state level and providing support to community efforts. The team shall be appointed by and be responsible to the Council. The team shall include one representative from each of the following state agencies: the Department of Health, *the* Department of Juvenile Justice, *the* Department of Social Services, *the* 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 Children's Services Act; 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, appointed 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 pursuant to § 2.2-5205. The nonstate agency members shall serve staggered terms of not more than three years, such terms to be determined by the Council.

The team shall annually elect a chairman from among the local government representatives who shall be responsible for convening the team. The team shall develop and adopt bylaws to govern its operations that shall be subject to approval by the Council. Any person serving on such team who does not represent a public agency shall file a statement of economic interests as set out in § 2.2-3117 of the State and Local Government Conflict of Interests Act (§ 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.

Summary of FY 2016 – 2018 Budget Items Related to the CSA

Caboose Bill

Item 279 – \$18,082,051

- This is to cover state share of CSA expenditures for FY2016 that resulted from increased expenses.

FY16 – FY 18 Biennium

Item 285 – \$18,082,051

- This is to cover state share of anticipated CSA expenditures that are projected due to increased expenses.

Increase Funds for CSA Local Administration - \$500,000 per year – Item 285 #2c

- Increase general fund allocation to support local CSA administrative costs.

State Executive Council Review of CSA Issues (language only) – Item 285 #1c

"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, and (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."

Explanation

(This amendment requires the State Executive Council for Children's Services to continue its review and development of a robust set of options for (i) increasing the reintegration of children receiving special education private day treatment service in their home school districts, based on outcome data to assist in making decisions on the appropriate utilization of these services, and (ii) funding the educational costs for students admitted to Medicaid-funded state or private psychiatric or residential

treatment facilities for non-educational reasons. Options and recommendations are to be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees by November 1, 2016.)

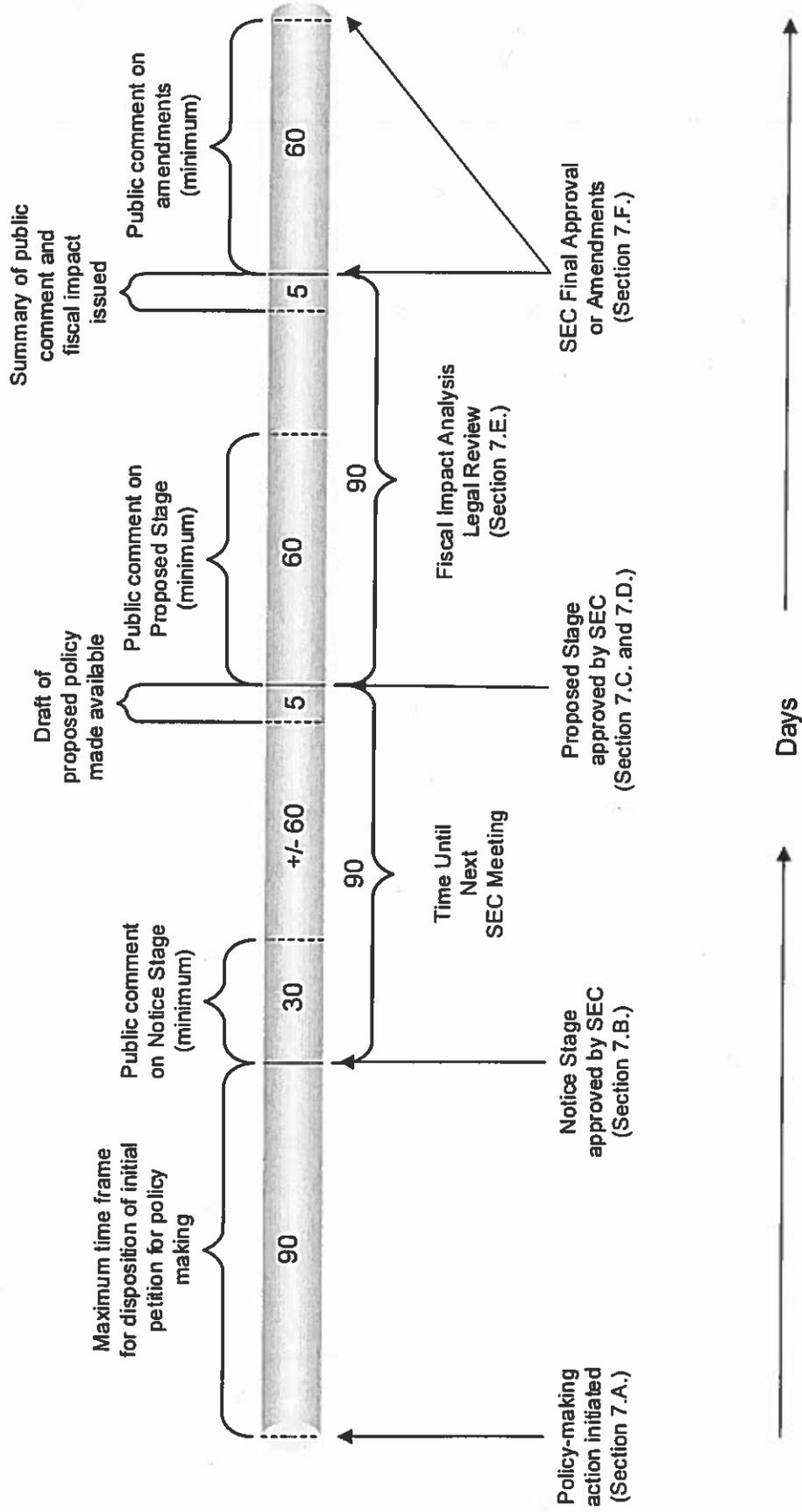
Workgroup on Serving Students with Disabilities (DOE) (language only) – Item 132 #2c

"E. The Department shall convene an interagency workgroup to assess the barriers to serving students with disabilities in their local public schools. The workgroup shall assess existing policies and funding formulas including school divisions' program requirements, localities' composite indices, local CSA match rate allocations, local CSA rate setting practices, the impact of caps on support positions, policies for transitioning students back to the public school, and funding for local educational programming based on models which are collaborative and create savings for both local and state government while providing youth an educational option within their communities. Membership shall include a balance of local and state representatives, all impacted state agencies, local education agency (LEA) representatives, local CSA representatives, local government officials, local special education administrators, stakeholder organizations, parent representatives, the Arc of Virginia, the Coalition for Students with Disabilities, and members of the Virginia General Assembly. The workgroup shall make recommendations to the Virginia Commission on Youth prior to the 2017 General Assembly Session."

Explanation

(This amendment is related to issues raised in a report on special education made to the Commission on Youth in December 2015.)

Time Frames for SEC Public Participation (Non-Exempt Policies)



**Public Participation in Policy-making Actions of the
State Executive Council for Children's Services
(Proposed SEC Policy 2.4)**

Background:

The process by which the State Executive Council for Children's Services (SEC) develops and implements policies for the governance of the Children's Services Act (CSA) has been a topic of discussion over the past several years. Legislation to require the SEC to follow the requirements of the Administrative Process Act (APA), § 2.2-4000 *et seq.* of the *Code of Virginia*, has been introduced, but not passed, in several recent sessions of the General Assembly. One of the reasons cited for these proposals is the desire to make SEC policy-making more transparent, procedurally clear and consistent, and responsive to potential impacts on local government, especially possible fiscal impacts. The 2015 Appropriation Act (Chapter 665, Item 278. E.) directed the Secretary of Health and Human Resources, in cooperation with the Secretary of Education, to convene a work group to provide recommendations on several aspects of SEC structure and governance, including "*whether the Council should have authority to promulgate regulations in accordance with the Administrative Process Act.*"

On November 17, 2015, the work group adopted the following recommendation:

“. . . the Council should not have the authority to promulgate regulations through the Administrative Process Act. The Council should however, develop clear guidelines for public participation in its process of developing and adopting policy. These guidelines should include specific time frames for various stages in the process, expectations for public notice and public comments, and expectations for consideration of fiscal impact on local government.”

The attached proposed policy outlines potential guidelines for the SEC's consideration to address this recommendation. The organizing principals and framework of this proposal are to establish a process that incorporates relevant elements of the APA¹ and addresses the key concerns of all CSA stakeholders.

¹ The proposed policy also incorporates relevant components from the model public participation guidelines issued by the Department of Planning and Budget as required by Chapters 321 and 575 of the 2008 Acts of the General Assembly.

**Public Participation in Policy-making Actions of the
State Executive Council for Children's Services
(Proposed SEC Policy 2.4)**

<p>Notice of Intent to Develop Policy Approved by the SEC: December 3, 2015 Public Comment Opened: March 22, 2016 Public Comment Close: May 23, 2016</p>

2.4.1 Purpose:

The purpose of this policy is to promote public involvement in the development, amendment, or repeal of policies of the State Executive Council for Children's Services (SEC).

2.4.2 Authority:

Section 2.2-2648 D 4 of the *Code of Virginia* states that the SEC shall:

"Provide for a public participation process for programmatic and fiscal guidelines and dispute resolution procedures developed for administrative actions that support the purposes of the Children's Services Act (§ 2.2-5200 et seq.). The public participation process shall include, at a minimum, 60 days of public comment and the distribution of these guidelines and procedures to all interested parties."

§ 2.2-2648 D 5 specifies that the SEC shall:

"... consult with the Virginia Municipal League and the Virginia Association of Counties about state policies governing the use, distribution and monitoring of moneys in the state pool of funds and the state trust fund."

In addition, § 2.2-2648 enumerates specific areas in which the SEC shall be responsible for the development and implementation of guidelines and practices for the Children's Services Act (CSA).

The Office of Children's Services (OCS) is established pursuant to § 2.2-2649 A as the administrative entity of the SEC.

2.4.3 Definitions:

"Administrative policy" means a policy of the SEC that applies only to the operations of the SEC and/or OCS without any impact on groups or stakeholders outside of the SEC or OCS.

"Basic law" means provisions in the *Code of Virginia* that delineate the basic authority and responsibilities of an agency and/or governing body.

"Commonwealth Calendar" means the electronic calendar for official government meetings open to the public as required by § 2.2-3707 C of the Virginia Freedom of Information Act.

"Fiscal impact analysis" means a systematic review of the potential fiscal impact of a proposed policy which includes and analysis of the impact on CSA state pool funds and other state funding sources, CSA local matching funds requirements, and any potential federal funding sources.

"Legal review" means a review of a proposed policy by the Office of the Attorney General to ensure that the proposed policy is in compliance with all relevant state and federal laws and regulations.

"Notice Stage" means the first stage of an SEC policy development where the SEC indicates the intent initiate a policy-making action.

"Notification list" means a list of persons, maintained by OCS, to be notified of SEC policy-making actions.

"Open meeting" means any scheduled meeting of a unit of state government empowered by an agency's basic law to establish policies or decide cases related to a policy-making action.

"Person" means any individual, corporation, partnership, association, cooperative, limited liability company, trust, joint venture, government, political subdivision, or any other legal commercial entity and any successor, representative, agent, agency, or instrumentality thereof.

"Policy" means any requirement adopted by the SEC that governs the implementation of the CSA.

"Policy-making action" means the development, amendment, or repeal of a policy by the SEC.

"Proposed Stage" means the second stage of an SEC policy-making action where the SEC has drafted the proposed requirements for the operation of the CSA, OCS, or the SEC that is within the legal authority of the SEC under § 2.2-2648 of the *Code of Virginia* or which the SEC is directed to adopt by the General Assembly of Virginia.

"Public comment" means the mechanisms by which the SEC receives input from interested parties concerning policy-making actions.

"Public hearing" means a scheduled time at which members of the SEC meet for the purpose of receiving public comment on a policy-making action.

"Public notice" means informing the public of the policy-making activities of the SEC.

2.4.4 Notification List and Public Notice

A. Notification List

1. The OCS shall maintain a list of persons who have requested to be notified of policy-making actions being considered by the SEC.
2. Any person may request to be placed on a notification list by making a request to OCS via e-mail at csa.office@csa.virginia.gov or 804-662-9815. Notification of persons on the notification list shall be made by electronic means unless the person specifically indicates a preference for notification via First Class mail.
3. When electronic mail is returned as undeliverable on two occasions, at least 24 hours apart, that person will be deleted from the notification list. A single undeliverable message shall be insufficient cause to delete a person from the notification list.
4. When mail delivered by First Class mail is returned as undeliverable on two occasions, that person will be deleted from the list.
5. The OCS may periodically request those persons on the notification list to indicate the desire to remain on or be deleted from the list and their preferred method of notification.
6. All members of the SEC and the State and Local Advisory Team (SLAT) (§2.2-5201) and all persons registered via the CSA website rosters as chairpersons of CSA Community Policy and Management Teams (CPMT, §2.2-5205) shall be placed on the notification list without the necessity of a specific request.

B. Additional Public Notice

1. In addition to the use of the notification list, OCS shall utilize the following additional mechanisms for informing the public of proposed policy-making actions of the SEC:
 - a. Prominently display current information about policy-making activities of the SEC on its website at www.csa.virginia.gov. The information shall indicate the stage of the action and when the SEC is scheduled to meet to consider the policy-making action.
 - b. Include notice of policy-making activities on the published agendas of public meetings of the SEC and any related committee, work group, or task force meeting.

2.4.5. Information to be Sent to Persons on the Notification List

A. OCS shall send to persons on the notification list the following information:

1. A notice of intent to develop policy (Initiation of the Notice Stage),

2. A notice of the public comment period on a proposed policy-making action, including the specific proposed policy documents and/or information on how to electronically obtain a copy of the specific proposed policy documents.
- B. The failure of any person to receive any notice of any documents shall not affect the validity of any policy if approved by the SEC.

2.4.6 Public Comment

- A. In considering any policy-making action not exempted in Section 8, the SEC shall afford interested persons an opportunity to submit data, views, and arguments, either orally or in writing. Such opportunity to comment shall include an on-line public comment forum maintained on the CSA website.
1. To any requesting person, the SEC shall provide a copy of the Notice Stage document.
 2. The SEC shall not be prohibited from developing and drafting policy-making actions prior to or during any opportunity it provides to the public to submit comments.
- B. The SEC shall accept public comments in writing after the issuance of public notice of a policy-making action as defined in Section 4. Public comment in writing shall be accepted as follows:
1. For a minimum of thirty (30) calendar days following the issuance of the Notice Stage (see Section 7 B).
 2. For a minimum of sixty (60) calendar days following the preliminary approval of the proposed policy (see Section 7 C).
 3. For a minimum of sixty (60) calendar days following the approval of a re-proposed policy (see Section 7 E (1) (c)).
 4. An expedited period of public comment for certain proposed policies is described in Section 7 G.
- C. The SEC may determine if any of the comment periods listed in Section 6 B shall be extended.
- D. Oral public comment on any policy-making action shall be welcome at all public meetings of the SEC and any committee, work group, or task force established to consider the policy-making action. Notice of any open meeting shall be posted on the Commonwealth Calendar at least five (5) working days prior to the date of the meeting. The exception to this requirement is any meeting held in accordance with §2.2-3707 D of the *Code of Virginia* allowing for contemporaneous notice to be provided to participants and the public.

E. Response to Public Comment

The OCS shall compile a summary description of and prepare a response to all public comment to on the policy-making action and send this to the SEC and all public commenters on the proposed policy at least five (5) calendar days before the meeting of the SEC at which final approval of the proposed policy will be considered.

In this summary description, the OCS shall indicate for each comment or group of comments that are of a similar nature whether the comment has been incorporated into the proposed policy or, if not, a brief explanation of the rationale for the action taken.

2.4.7 SEC Policy-making Process

A. Petition for a Policy-making Action

1. Any person may petition the SEC to initiate a policy-making action. The petition shall state:
 - a. The petitioner's name and contact information; and
 - b. The substance and purpose of the policy-making action that is requested, including reference to any applicable SEC policies and/or reference to the legal authority of the SEC to take the action requested. However, the failure of a petitioner to include the legal authority shall not preclude consideration of the petition.
2. Petitioners shall submit a written petition to the Executive Director of the OCS. The petition shall be included in the documents provided in advance of the next scheduled meeting of the Executive Committee of the SEC. At this meeting, the Chair of the SEC, in consultation with the Executive Committee of the SEC and the Executive Director of the OCS, shall determine the disposition of the petition.
3. Disposition of such petitions may include:
 - a. Acceptance of the petition and initiation of a policy-making action.
 - b. A request for the petitioner to present the request for consideration to the full SEC.
 - c. Denial of the petition.
4. Within ten (10) days of disposition, OCS shall notify the petitioner of that disposition in writing.
5. Nothing in this policy shall prohibit the OCS or the SEC from receiving information or from proceeding on its own motion for initiation of a policy-making action.

B. Notice Stage

1. A determination to begin a policy-making action will be made by the Executive Director of the OCS, in consultation with the Chair and the Executive Committee of the SEC.²
2. At a minimum, the Notice Stage shall include (i) a summary of the intended policy-making action, a statement of the basis, purpose, and substance of; (ii) issues to be addressed in; and (iii) a preliminary estimate of the fiscal impact of the policy-making action.
3. Should the SEC approve the Notice Stage, it shall be issued via public notice and open for public comment as provided for in Section 6 B. The Executive Director of the OCS or designee shall be responsible for compiling, organizing, and presenting to the SEC public comments received.

C. Initiation of the Proposed Stage

1. The SEC shall consider the draft of the proposed policy-making action a maximum of six (6) months after the close of the public comment period of the Notice Stage.
2. The draft shall be made available via public notice no less than five (5) days prior to the scheduled meeting of the SEC at which the draft of the proposed policy-making action will be considered. When distributing the draft, the OCS shall also provide a summary of public comments with the agency's response as provided for in Section 6 E.

D. Approval of Proposed Stage for Public Comment

1. The SEC shall consider issuance of the proposed policy for public comment. At this time, the SEC may take one of three actions:
 - a. Approve the issuance of public notice of the proposed policy for a period of public comment not less than sixty (60) days.
 - b. Reject the proposed policy-making action.
 - c. Take other action to gather further information prior to proceeding on the proposed policy under 1 or 2 above. Such actions may include the appointment of an ad hoc work group, consultations with groups and/or individuals with interest in the proposed policy, or other steps the SEC may deem appropriate.

E. Proposed Stage Fiscal Impact Analysis and Legal Review

² §2.2-2649 B 1 of the *Code of Virginia* provides that the Director of OCS shall "Develop and recommend to the state executive 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." Section B 2 further requires to OCS to "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."

If the SEC approves the Proposed Stage, (i) the OCS shall complete a fiscal impact analysis and (ii) a legal review shall be conducted for consideration by the SEC.

1. Fiscal Impact Analysis

- a. Before taking further action on a proposed policy-making action the SEC shall consider the potential fiscal impact of the policy. The OCS shall provide a thorough analysis of the fiscal impact of the proposed policy-making action based on the best available information.
- b. For non-administrative policy-making actions, in completing the fiscal impact analysis, OCS shall:
 - i. Solicit input from the Virginia Municipal League (VML) and the Virginia Association of Counties (VACO). VML and VACO shall be provided a minimum of thirty (30) days in which to provide comments. The fiscal impact analysis shall include whether there is an estimated impact on localities or other entities and identify any localities or other entities particularly affected by the proposed policy. If no localities or other entities are particularly affected by the proposed policy, the analysis shall so state.
 - ii. The fiscal impact analysis shall be made available via public notice no less than five (5) days prior to the scheduled meeting of the SEC at which the proposed policy-making action will next be considered.

2. Legal Review

- a. When the proposed policy-making action is posted for public comment, the OCS shall submit the proposed policy to the Office of the Attorney General to ensure statutory authority for the proposed policy-making action.
- b. Should the legal review of the proposed policy reveal non-compliance with relevant statutes and/or regulations, the SEC shall be so informed by legal counsel and shall make such revisions in the proposed policy as are necessary.

F. Final Approval

1. No less than five (5) days prior to the scheduled meeting of the SEC for consideration of approval of the policy-making action, the following shall be sent via public notice:
 - a. A draft of the proposed final policy with any deletions indicate with strike through notations and any new language underlined;
 - b. A summary of all changes and the rationale for the change;
 - c. A summary of all comments received and the agency's response as provided in Section 6 E; and

- d. The fiscal impact analysis and legal review documents.
2. The SEC may take one of the following actions:
- a. Approve the proposed policy and establish an implementation date;
 - b. Reject the proposed policy;
 - c. Revise the proposed policy and initiate an additional period of public comment (re-proposed policy); or
 - d. Defer final action on the proposed policy in order to gather other specific information prior to taking additional action at a future meeting.

G. Expedited Approval

1. If the Executive Committee of the SEC believes a proposed policy meets the definition of administrative-policy or is deemed to otherwise be non-controversial, it shall so inform the SEC.
2. If the SEC so determines, the proposed policy may be handled via an expedited review process.
3. The expedited review process shall include the following:
 - a. The proposed policy shall be presented at a regular meeting of the SEC with a recommendation that it is eligible for expedited approval;
 - b. The SEC shall make a determination on whether the proposed policy meets the criteria for expedited approval;
 - c. If an affirmative determination is made, public notice of the proposed policy shall be made by the OCS in accordance with Sections 4 A and B. The public comment period shall be open a minimum of thirty (30) days;
 - d. If there are no more than seven (7) individuals raise objections raised through public comment, the proposed policy will become effective fifteen (15) days following the close of the public comment period;
 - e. If more than seven (7) persons raise objections during the public comment period, the expedited review process shall serve as the Notice Stage and the policy-making action shall proceed to the Proposed Stage.

2.4.8 Exemptions:

- A. The following policy-making actions shall be exempt from the provisions of this policy that:
1. Consist only of changes in style or form or corrections of technical errors in existing SEC policies;
 2. Are necessary to conform to changes in Virginia statutory law or the appropriation act where no agency discretion is involved. However, notice of such policies shall be disseminated via public notice within ninety (90) days of the law's effective date;
 3. Are required by order of any state or federal court of competent jurisdiction where no agency discretion is involved; or
 4. Are necessary to meet the requirements of federal law or regulations, provided such regulations do not differ materially from those required by federal law or regulation, and the Office of the Attorney General has so determined in writing. Notice of such policies shall be disseminated via public notice not less than thirty (30) days prior to the effective date of the policy.



TRAINING PLAN

Fiscal Year 2017

Developed in accordance with Chapter 665 (Appropriation Act), Item 279, Section B.6

Submitted for Approval by the State Executive Council June 18, 2016

The mission of the Children's Services Act (CSA) is to create a collaborative system of services and funding that is child-centered, family-focused and community-based when addressing the strengths and needs of troubled and at-risk youth and their families in the Commonwealth. One important mechanism for achieving this mission is through development and implementation of a robust training plan. The Code of Virginia requires that the Office of Children's Services (OCS) "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." In accordance with provisions of the biennial Appropriation Act, the Office of Children's Services presents an annual training plan to the State Executive Council for approval. This document outlines the OCS FY2017 Training Plan for the period of July 1, 2016 – June 30, 2017.¹ The list of training topics is intended to be broad and inclusive. Specific training activities will be planned and implemented in response to stakeholder requests and needs, important system-wide initiatives, and within the resources available.

I. GOALS

A. TO INCREASE KNOWLEDGE, SKILLS, AND COMPETENCIES OF INDIVIDUALS HOLDING CSA SPECIFIC ROLES AND RESPONSIBILITIES TO ENSURE EFFECTIVE IMPLEMENTATION OF THE CSA.

Objectives:

- To enhance effectiveness and positive outcomes for youth and families by ensuring that the core requirements of CSA and the principles of a system of care are known to individuals who serve key roles within the structures of CSA.
- To assure that basic competencies in CSA practice are applied to local operations.
- To enhance the levels of knowledge and skills of core members of local CSA team members.
- To support, encourage and motivate key CSA participants to realize the mission and vision of the CSA and the system of care through collaboration and excellence in practice.

Target Audiences:

- CSA Coordinators; CPMT members; FAPT members; Fiscal Agents; Utilization Review Specialists; External Auditors.

Possible Topics:

- CSA Mission and Vision/CSA as a System of Care
- Building effective multi-disciplinary teams/collaboration
- Overview and prioritization of local CSA Coordinator responsibilities (§2.2-2649)
- Provision of effective and efficient services (§2.2-2649)

¹ Where appropriate, specific statutory requirements addressed through this training plan are indicated.

- Use of data and data analytics to assess service patterns and improve outcomes
- Understanding High Fidelity Wraparound and Intensive Care Coordination
- Utilization Management and Utilization Review (*Appropriation Act*)
- Controlling costs and utilizing alternative funding streams and revenues (*Appropriation Act*)
 - Blending & Braiding Funds – Developing a Fiscal Plan
 - Accessing the full array of Medicaid services (*Appropriation Act, with DMAS*)
- Use of state pool funds: eligibility and decision points
- FAPT determination of CHINS: parental agreements and foster care prevention
- Understanding mission, purpose, and outcomes of child-serving agencies
 - Foster care services and the CSA (*Appropriation Act, with DSS*)
 - Requirements regarding IDEA and the use of CSA funds for special education services (*Appropriation Act, with DOE*)
- Guidelines for Therapeutic Foster Care and negotiating contracts with TFC providers (*Appropriation Act*)
- Building community services/public-private partnerships (*Appropriation Act*)
- CSA program audits: compliance monitoring and program improvement; self-assessment process
- Navigating cross-jurisdictional issues: Fostering Connections; transfers; out-of state placement
- Administrative and fiscal issues: Local statutory responsibilities (*Appropriation Act*)
- Financial and data reporting requirements of CSA (supplemental funding requests, pool fund reimbursement, data set, and client based expenditures; understanding service categories, match rates)
- Engaging families, empowering client/family voice and choice
- Contracting: regional contracts, negotiating terms, performance-based contracts
- Audits of local CSA programs

Primary implementation methods:

- CSA Annual Conference
- New CSA Coordinator Academy
- On-line and Webinar training
- Information developed and disseminated through the CSA website

B. TO INCREASE KNOWLEDGE, SKILLS, AND COMPETENCIES OF CHILD SERVING ENTITIES TO MAXIMIZE USE OF CSA PROCESSES AND FUNDING TO EFFECTIVELY SERVE YOUTH AND FAMILIES.

Objective:

- To ensure that the key partners in the CSA gain specific and targeted knowledge and competencies to incorporate CSA into their primary areas of professional responsibility.

Target Audiences:

- Executive managers, supervisors, and direct service staff in local departments of social services, court service units, community services boards, and school divisions; state level managers in child-serving agencies; juvenile and domestic relations court judges; guardians ad litem; LDSS attorneys; elected and appointed local government officials; private service providers.

Topics:

- Foster care services and the CSA (*Appropriation Act, with DSS*)

- Requirements regarding IDEA and the use of CSA funds for special education services (*Appropriation Act, with DOE*)
 - Best practices and effective strategies for serving children with educational disabilities in the least restrictive environment (per request of the Commission on Youth)
- Vision and mission of CSA
- Accessing CSA funded services
- CANS certification and Super Users training
- Using CANS for service planning

Primary Implementation Methods:

- Stakeholder venues/conferences
- Locality-specific training events
- Virtual learning (on-line) opportunities developed and disseminated in conjunction with partner agencies

Supporting Activities:

- Coordinate with local CSA programs and stakeholder organizations to plan and deliver topical CSA training within agency-specific conferences and training sessions.
- Work with the State and Local Advisory Team (SLAT), the State Executive Council (SEC), selected partner agencies, and other affiliated organizations (e.g., VML/VACO, VCOPPA, VLSSE/VDSS) to identify “recommended” and “mandatory” CSA-related training to be incorporated into agency training requirements and plans.

C. TO ENHANCE CSA OUTCOMES FOR YOUTH, FAMILIES AND COMMUNITIES BY ADOPTION OF EFFECTIVE, EVIDENCE-BASED PRACTICES.

Objectives:

- To provide opportunities for CSA stakeholders to learn about and develop competencies in effective, evidence-based models pertaining to the service needs of the CSA population.

Target Audiences:

- All CSA stakeholders

Topics:

- Best practices and evidence-based practices related to the CSA (*Appropriation Act*)
 - Introduction to Systems of Care
 - Intensive Care Coordination / High Fidelity Wraparound (HFW)
 - Facilitator training
 - Family and youth support partner training
 - Local coaching and clinical supervisors training
 - Trauma-informed services within an overall System of Care (in collaboration with DSS and DBHDS)
 - Use of the CANS as an outcomes management tool
 - Family engagement – families and youth as partners
 - Evidence-based/evidence-informed practices in children’s services

Primary implementation methods:

- CSA Annual Conference

- Collaborative training efforts with partner agencies
- On-line and Webinar training
- Information developed and disseminated through the CSA website

II. TRAINING AND TECHNICAL ASSISTANCE METHODOLOGIES

A. DELIVER OCS SPONSORED TRAINING OPPORTUNITIES

Activities:

- Conduct Annual CSA Conference
- Conduct Pre-conference CSA Coordinator session at annual CSA Conference
- Conduct New CSA Coordinator Academy

B. DELIVER CSA RELATED TRAINING WITHIN STAKEHOLDER VENUES/CONFERENCES

Projected Activities:

- In collaboration with sponsoring entities, conduct training in a variety of venues. Examples include, but are not limited to:
 - Dept. of Education: Aspiring Leaders of Special Education Academy
 - Dept. of Education: New Directors of Special Education Academy
 - Dept. of Social Services: New Local Directors Learning Experience
 - VA League of Social Service Executives training events
 - VA Association of Counties meetings
 - VA Coalition of Private Provider Organizations Critical Issues Symposium
 - VA Association of Independent Special Education Facilities: Annual Conference
 - Office of Executive Secretary of the Supreme Court: Court Improvement Program training events
 - Office of Executive Secretary of the Supreme Court: Mandatory JDR Judges Conference
- Through collaboration with stakeholder agencies and organizations, identify and schedule venues.
- Through collaboration with stakeholder agencies and organizations, the State and Local Advisory Team (SLAT), and the SLAT Training Workgroup, identify training needs and appropriate training venues/opportunities.

C. DELIVER TARGETED, HIGH-QUALITY TECHNICAL ASSISTANCE

Objective:

- To respond to stakeholder identified needs for information that will enhance the effectiveness of CSA activities, minimize and/or respond to audit findings, and support overall system of care implementation

Activities:

- Maintain the "OCS Help Desk" on the CSA website to facilitate prompt, accurate and consistent responses to requests for specific guidance
- Provide targeted on-site training and technical assistance to meet needs identified by OCS, localities, and/or regions
- Provide targeted assistance to facilitate CPMT corrective action/program improvement activities
- Provide on-site and remote technical assistance on frequently asked questions/common issues
- Provide information through the Resource Library of the CSA website (FAQ's, Fact Sheets)

D. DEVELOP AND OFFER VIRTUAL LEARNING OPPORTUNITIES

Objective:

- Maximize participation and accessibility of CSA-related training through an array of delivery platforms and designing training to meet diverse learning styles and venues

Activities:

- Maintain training site for CANS certification
- Administer the CSA Knowledge Center (KC) to include user account management for local users
- Plan and deliver webinars on "hot topics" (e.g., new policy guidelines), best practices, common focal issues raised by CSA stakeholders
- Develop and implement on-line and other distance learning programs to include:
 - Educational opportunities through the Knowledge Center
 - Ongoing availability of archived training materials from the annual conferences, webinars, and other sources
 - Use of the CSA website to make available materials from national and other sources of best-practices information

E. PROMOTE AVAILABILITY OF LIVE AND VIRTUAL TRAINING OPPORTUNITIES

Objective:

- Build participation levels and ensure that various stakeholders are aware of relevant training opportunities provided by both OCS and partner agencies

Activities:

- Maintain the on-line Training Calendar which provides information about upcoming training events and information on how to enroll in those events
- Support the work of the SLAT Training Committee to collect, provide to OCS and disseminate information on upcoming training events
- OCS will utilize various communication mechanisms (CSA listserve, CSA website, e-mail lists) to inform stakeholders of relevant upcoming training events

III. EVALUATION

Objective:

- To provide accountability and continuous quality improvement for OCS training activities

Activities:

- Identify and assess measurable objectives for all CSA training activities
- Design course outlines, content, materials, activities, methods of instruction, and evaluation criteria for CSA training activities that reflect the principles of adult learning and best practices in instructional design
- Collect and report information regarding participants (e.g., number, primary professional affiliation) at major CSA training events

- Collect and summarize evaluations of OCS training activities and utilize feedback to refine and improve training activities
- Provide quarterly reports to the State Executive Council summarizing OCS training activities
- Complete and submit an annual report to the General Assembly regarding OCS training activities

DRAFT

Special Education Wraparound Funds in the Children's Services Act Background and Issues Raised by the Virginia Commission on Youth

Prepared for the State Executive Council for Children's Services – March 2016

Statutory and Policy Authority

Since the inception of the Children's Services Act (CSA), students with educational disabilities have been included in the mandated (sum-sufficient) population when their Individualized Education Program (IEP) requires placement into approved private education programs (COV, §2.2-5211.B. 1.).

In 1996, the State Executive Council (SEC) approved extending the above mandate to allow for provision of non-educational support services to students with disabilities to prevent a more restrictive educational placement.

The federal Individuals with Disabilities Education Act of 2004 (IDEA) provides statutory requirements for services provided to students with disabilities and in particular, the responsibilities of public schools to provide a free and appropriate public education (FAPE).

Prior to 2010

In the collaborative system of care framework of CSA, schools and CSA were encouraged to work together to meet student's needs and to maintain them in the least restrictive environment. CSA practice and guidance were "permissive" of funding for non-educational services provided to students with disabilities in the public school setting with the intent of preventing the need for more restrictive private day or residential educational placements. Services on the student's IEP were at times written into CSA Individual Family Service Plans in order to access CSA funding.

2010

In 2010, the Department of Education became aware that a number of localities were providing, with CSA funds, behavioral aides for students with disabilities in the public schools. In January 2010, the Superintendent of Public Instruction released a memo entitled "Protection of Rights to a Free Appropriate Public Education and Use of Funds under the Comprehensive Services Act." Although the memo did not specifically state that behavioral aides were not an allowable expense, it did state that localities could use CSA funds for students served in the public schools, but not for services that would be the responsibility of the school division. The memo further warned that "the omission of services from the IEP to gain access to CSA funding constitutes a violation of FAPE, as well as misuse of CSA funds."

Post 2010

With the clarification that CSA funds could not be utilized to fund services for students with disabilities in the public school setting, the SEC adopted the following policy to clarify the mandate for and the appropriate use of state pool funds for children with educational

disabilities beyond the existing statutory requirements related to private educational placements:

The special education mandate cited in §2.2-5211 B1 may be utilized to fund 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. (CSA Policy 4.1.3)

This policy established the CSA service category of *Wraparound Services for Students with Disabilities* replacing the previous category of *Services in the Public Schools*. As a result, if a student with an educational disability has needs arising from that disability that present challenges outside of the school setting, use of mandated funds under the category of *Wraparound Services* is appropriate to assist the student and family *as long as they are provided in the home and in the community and the purpose is to maintain or to return the child to a less restrictive setting*.

Funding, Data and Outcomes

From 2011 until 2013, there was no specifically designated funding for *Wraparound Services*. Localities utilized their existing CSA state pool allocations for this purpose.

Beginning with the 2012 Appropriation Act, the General Assembly earmarked \$2,200,000 of the CSA appropriation for *Wraparound Services* as defined by the SEC Policy. OCS makes specific allocations available to each locality based on a formula in the Appropriation Act. The locality either accepts or declines this allocation. The maximum initial allocation in FY2016 was \$247,159 and the minimum was \$1,000. At mid-year, OCS makes every effort to redistribute "unclaimed" *Wraparound* appropriations among localities to ensure maximum availability and utilization of the earmarked amount. Unutilized *Wraparound* funds are reverted to the general fund at the end of the fiscal year.

A January 2013 report to the General Assembly by the OCS and Secretary of Health and Human Resources (http://www.csa.virginia.gov/html/GA-FY12-Wrap_Services.pdf) suggested that localities utilizing CSA funds reported as "Wraparound" (prior to the specific financial earmark) demonstrated reduced use of restrictive (private) educational placements. With the policy clarification issued in FY2010, the number of youth receiving these services dropped dramatically from a high of 1,487 in FY2008 to 295 in FY2012. This suggests that the majority of youth served in this category were receiving services in the public school settings that were prohibited by the 2010 guidance and 2011 SEC policy.

Data for the past three fiscal years shows the following:

	FY15	FY14	FY13
State Allocation	\$ 2,200,000	\$ 2,200,000	\$ 2,200,000
Aggregate State Funds Utilized @ 65%	\$ 1,225,777	\$ 1,202,050	\$ 1,316,168
Approx. Unused State Allocation	\$ 974,223	\$ 997,950	\$ 883,832
% of State Allocation Utilized	56%	55%	60%
Number Localities Utilizing Funds	52%	50%	55%
Number of Children Served	454	389	365

This data suggests that the *Wraparound* earmarks are significantly underutilized.

As with all CSA state pool funds, local match requirements apply and vary by locality. Originally, the match for the earmarked *Wraparound Services* was established at the lowest of the three CSA match rates, the “community-based” rate. The state aggregate community-based local match rate is 17.5%. Prior to FY2014, that match rate shifted to the “base” match rate due to state budget constraints. The state aggregate base local match rate is 35%.

Specific Request from the Commission on Youth

The Virginia Commission on Youth (COY) recently completed a two-year study, “The Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities” (House Document No. 15, 2015). This study is a comprehensive review of the subject. Among the recommendations was a request that the State Executive Council examine issues related to use of the *Wraparound Services for Students with Disabilities*.

1. The COY specifically requested that the SEC address whether re-assignment of the local match rate for *Wraparound Services* to the community-based match rate might increase fund utilization and service provision. OCS has determined that the maximum fiscal impact of such a change (from the current base local match rate) would be approximately \$400,000 assuming full utilization of the \$2,200,000 state earmark. That impact would decrease if less than the full \$2,200,000 were utilized.
2. The COY also requested the SEC to consider elimination of the requirement for localities to assess for and collect parental co-payments for *Wraparound Services*. The assumption being explored is that parental co-payment requirements are a barrier to access and utilization. Presently, the only CSA services that are exempt from statutory requirements to have parents contribute financially to the cost of services are when such policies are specifically prohibited by federal or state law or regulation (see COV, §2.2-5206.3.). An example of such a prohibition is for private educational placements that are a requirement of a child's IEP. There is presently no such prohibition for *Wraparound Services*. Additionally, SEC Policy 4.5.4 states that “parents of children in in-home care should be charged a standard parental co-payment based on both the ability of each parent to pay and the cost of the service.” In order to “exempt” *Wraparound Services* from parental co-payment requirements, it is likely that a statutory change or clarification would be required. Should *Wraparound* funds be exempted from

parental co-payment requirements, it is anticipated that the fiscal impact on CSA (both state and local funds) would be minimal.

3. Finally, the COY requested that the SEC examine the prohibition on using funds for non-educational services provided by school employees. The OCS has researched this issue and determined that this issue stems from the pre-2010 utilization of CSA funds for services in the public schools. Some localities were (fully or partially) funding school staff through CSA and were utilizing such staff to address student's needs outside of the physical school setting/hours. For example, school staff with titles such as "behavioral aides" or "behavioral support assistants" would go to the student's home in the morning before school to assist parents in facilitating a smooth transition to the school day by reinforcing interventions used in the school. CSA funds were used (without distinction) to cover both these home-based activities, as well as in-school support activities. With the prohibition against using CSA funds for in-school services, the home-based activities by school employees were also eliminated. Consultation with staff at the Department of Education has clarified that school personnel do not typically provide non-educational services outside of the school setting while on the school payroll. The use of school personnel to provide community-based, non-educational services, paid for by an outside, non-school source such as CSA *Wraparound* funds, could be interpreted as violating the requirements that require all school services for children with disabilities in the public schools be paid for by the public schools.

STATE AND LOCAL ADVISORY TEAM MEMBERSHIP

REPRESENTATIVES OF THE FIVE GEOGRAPHIC REGIONS OF THE STATE REPRESENTING PARTICIPANTS OF COMMUNITY AND POLICY MANAGEMENT TEAMS

SOCIAL SERVICES (7/1/2013 – 6/30/2016)

Member: Tamara Temoney, Ph.D.*

Alternate: Brad Burdette*

Alternate:

Hanover
Appomattox

Central
Western

COMMUNITY SERVICES BOARDS (7/1/2014 – 6/30/2017)

Member: Charles (Chuck) Walsh, Executive Director

Alternate: Ivy Sager

Middle Peninsula
Hanover

Eastern
Central

COURT SERVICE UNITS (7/1/2015 – 6/30/2018)

Member: Ron Belay

Alternate: Mike Scheitle

Alternate: Vincent Butaitis

29th District Court Service Unit
9th District Court Service Unit
15th District Court Service Unit

Southwestern
Eastern
Northern

SCHOOLS (7/1/2013 – 6/30/2016)

Member: Angela Neely, Director of Special Education

Alternate: Shelia Bailey, Director of Student Services

Culpeper County
City of Hopewell

Northern
Central

LOCAL GOVERNMENT CPMT REPRESENTATIVE (7/1/2015 – 6/30/2018)

Member:

Alternate:

Alternate:

PARENT REPRESENTATIVE

TERM: 7/1/2013- 6/30/2016

Member:

Alternate: Audrey Brown

Alternate: Cristy Corbin

Clarke County
Hanover County

PRIVATE PROVIDER REPRESENTATIVE

TERM: 7/1/2015 – 6/30/2018

Member: John Dougherty

Alternate: Kellie Evans

Alternate: Shannon Urdike

Virginia Home for Boys and Girls
The Up Center
HopeTree Family Services

CSA COORDINATOR OR PROGRAM MANAGER

TERM: 7/1/2015 – 6/30/2018

Member: Karen Reilly-Jones

Alternate: Victor Evans

Alternate: Nat Leonhard

Chesterfield County/Colonial Heights
Prince William County
Rockbridge County

**JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT JUDGE
TERM: 7/1/2013 – 6/30/2016**

Member: The Honorable Frank W. Somerville*
Alternate: The Honorable Ashley Tunner
Alternate:

16th District Juvenile and Domestic Relations Court
13th District Juvenile and Domestic Relations Court

STATE AGENCY REPRESENTATIVES

DEPARTMENT OF HEALTH

Member:
Alternate:

DEPARTMENT OF JUVENILE JUSTICE

Member: Jack Ledden
Alternate:

Assistant Deputy Director of Operations

DEPARTMENT OF SOCIAL SERVICES

Member: Carl Ayers
Alternate: Alex Kamberis

Director, Division of Family Services
Assistant Director, Division of Family Services

DEPARTMENT OF BEHAVIORAL HEALTH AND DEVELOPMENTAL SERVICES

Member: Janet Lung
Alternate: Pam Fisher

Director, Office of Child and Family Services
Child and Family Program Specialist

DEPARTMENT OF MEDICAL ASSISTANCE SERVICES

Member: Brian Campbell
Alternate: Sandra Brown

Senior Policy Analyst, Behavioral Health
Behavioral Health Manager

DEPARTMENT OF EDUCATION

Member: Patricia Haymes

Alternate: Sabrina Gross

**Director of the Office of Dispute Resolution and Administrative
Services**
Complaint Specialist

***Serving unexpired terms. Appointed by SEC June 2014.**