



Frequently Asked Questions (FAQ)¹ (August 2019)

“Interagency Guidelines for the Provision of Foster Care Services to Specific Children in Need of Services (CHINS) Funded through the Children’s Services Act (CSA)”

Adopted December 2007

SEC Policy 4.1.1 and 4.1.2

1. Is it appropriate to serve children with Intellectual or Developmental Disabilities (ID/DD) through the use of CSA Parental Agreements?

The intent of the SEC Policies is to provide a mechanism for families with children who have significant mental health or behavioral/emotional needs to access clinical behavioral health treatment with the goal of returning home. Although children with ID/DD may certainly exhibit behavioral needs (e.g., aggression), the behaviors are often driven by the intellectual or developmental disability and may require long-term or life-long intervention and support. Consequently, while children with ID/DD are not specifically excluded from this service, placement through a CSA Parental Agreement is often not the most appropriate way to meet their needs. It may provide a temporary solution, but not one which can be sustained long term. Family Assessment and Planning Teams (FAPTs) should carefully assess each individual situation, to determine if a relatively shorter term placement through a CSA Parental Agreement is likely to address the behavioral issues. For example, a child with a co-occurring ID/DD and mental health disorder would likely benefit from placement. Parents should be made aware that the placement is only to assess and/or address needs which are amenable to clinical mental health treatment.

As children with ID/DD needs may require life-long support, it is critical to arrange care and resources as early as possible through the local Community Services Board/Behavioral Health Authority and Medicaid (e.g., through Medicaid Waiver funding).

2. How long should a CSA Parental Agreement last?

There is no standard time frame for provision of services through a CSA Parental Agreement. The Code of Virginia requires that services be provided “for a planned period of time” to allow for individualization to meet the child’s needs. FAPTs should set a time frame for monthly or quarterly review to assess progress and adjust services accordingly. It is important to

¹ This FAQ includes previously issued (and now updated) FAQ’s on the CHINS Eligibility Checklist, CSA Parental Agreements, and the Interagency Guidelines on Foster Care Services for Specific Children in Need of Services beginning on page 8.

remember that CSA Parental Agreements support a relatively short-term placement to treat a child's mental health/behavioral/emotional needs. The placement should include providing the child and family with therapeutic interventions, specific behavior management and coping skills while determining if and what medication may help to stabilize the child's functioning. Services to transition the child home may be provided. The goal is to discharge the child to their home as soon as clinically appropriate with supports as needed.

3. May children be served through CSA Parental Agreements past the age of 18?

No. There is no statutory authority to serve children through CSA Parental Agreements beyond the youth's 18th birthday. An individual can no longer be a "child in need of services" once they turn 18. Additionally, CSA Parental Agreements are contracts with the legal custodians of the child who retain custody while treatment is provided. A parent no longer has legal custody of a child as of the child's 18th birthday and can no longer be the consenting party to the placement. There is no legal mechanism to enter into an agreement with the young adult to continue in placement.

4. Can a child be eligible for placement through a CSA Parental Agreement if the parent or legal custodian states that the child may not return home?

The fourth criteria on the CHINS Eligibility Checklist states that if out of home treatment is needed the goal is to return the child home as soon as appropriate. Consistent with the intent of the "Interagency Guidelines" and the SEC Policy, the family is seeking treatment and assistance with helping their child function successfully at home and in the community. However, it is essential that FAPTs do not use this criteria in such a literal or rigid fashion that eligible families are denied services.

Typically, CSA Parental Agreements are entered into at a time of great crisis in the family. The parents are likely overwhelmed and perceive that they are unable to safely or effectively manage their child's behaviors. The parent may even think it increases the likelihood of accessing services if they say the child cannot return home. However, once the crisis is alleviated, parents may feel stronger and more able to cope and acknowledge that they do want, or are willing to work toward the goal of return home. At the time of the agreement the FAPT should consider factors such as the overall level of investment and concern the parent has for the child, what services and supports they have already sought, and by assessing, in general, the parents' commitment over time, not just in the moment of crisis.

The CSA Parental Agreement requires that parents agree to and remain involved with their child during treatment by visiting, participating in therapy and fulfilling other parental responsibilities. It is possible that parents will have ambivalent feelings at times about their ability to care for the child. FAPTs or Community Policy and Management Teams (CPMTs) should not abruptly terminate placements if a parent becomes discouraged or wishes to discuss other options during placement. Rather the FAPT should work with the parent to

either resolve their concerns or create an alternate plan, including a transition plan, to end the placement. A placement should never end abruptly without adequate discharge planning.

5. Is it appropriate to enter into a CSA Parental Agreement with a family who has CPS/DSS involvement? How do we decide who should case manage?

No, it is not appropriate to enter into a CSA Parental Agreement when abuse or neglect concerns exist with the family. A CSA Parental Agreement cannot be used as an intervention for a family who is receiving foster care prevention services because of abuse or neglect. Nor may a CSA Parental Agreement be used as an alternative to a child's placement in foster care because of the caregiver's needs or inability to protect the child or adequately care for the child. The local DSS has the statutory authority and responsibility of case management for children and families where abuse or neglect presents a risk. No other agency can assume this role.

The key distinction to consider is whether intervention and services are necessary because of the parent or caregiver's needs or situation which have resulted in their being unable to protect the child from abuse, neglect or other harm. If so, a CSA Parental Agreement is not appropriate. In such cases, the LDSS should provide case management under foster care prevention (including "CPS Ongoing") or through a foster care placement.

Of course, there may be situations where both abuse/neglect and a child's emotional/behavioral needs exist. In those situations, the need to protect the child from harm is the determining factor regarding case management. A CSA Parental Agreement is not appropriate.

6. Why is a CSA Parental Agreement not appropriate if both abuse/neglect and child behavioral concerns exist?

When children are placed out of the home through an action of the LDSS, they are provided procedural safeguards which are not needed/provided with placements through CSA Parental Agreements. As the state's designated child welfare agency, local DSS are required to follow federal law which includes both safety and permanency protections. These requirements include ongoing court involvement, determinations, and time frames for permanency decisions to prevent children remaining in out-of-home (non-permanent) placements for extended periods. The local DSS is required to work with the family to alleviate the factors or resolve the problems which led to the abuse or neglect, and if possible, to safely reunite the family. If not, and there is no alternative, the local DSS must file for termination of parental rights so the child may achieve permanency through adoption.

CSA Parental Agreements do not provide a mechanism to resolve issues of abuse, neglect or permanency. Their purpose is to provide temporary mental health treatment to children with behavioral/emotional needs. Because the target population is families who are voluntarily seeking such treatment, court involvement and permanency protections are not relevant.

It is essential that FAPTs, CPMTs and local DSS understand this difference and ensure that the child welfare agency (LDSS) serve families where abuse, neglect, protection, and permanency concerns exist.

7. Our FAPT struggles with interpreting the CHINS definition, specifically the “under 14” clause? How does this clause affect a CHINS determination?

The statutory definition of a Child in Need of Services as found in [§16.1-228](#) of the Code reads as follows:

i) a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14 whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person.

The CHINS definition is broad and includes **any** child or youth up to the age of 18 who meets the standard in the first clause (i), i.e., the child’s “behavior, conduct or condition presents or results in a serious threat of harm to either the child’s safety or well-being.” **If the child or youth meets this definition, there is no need to continue to the second clause (ii).**

If a child under the age of 14 DOES NOT meet the criteria in the first clause (does not pose a threat to his/her own safety or well-being), he or she may still be eligible as a CHINS if his or her “behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of another person.” This second clause provides the opportunity to provide a young child with mental health treatment through a CHINS designation, including a CSA Parental Agreement, when the child does not pose a risk to him/herself but who presents a risk to, or has harmed, another person.

The statutory definition does not exclude youth over the age of 14 who present a risk of harm to others if the youth meets the criteria in the first clause. In other words, a youth over 14 who presents a risk of harm to him/herself and a risk to others is eligible.

8. What are appropriate treatment settings for children placed through CSA Parental Agreements?

Appropriate settings for CSA Parental Agreements are treatment-oriented and must be residential care, such as a Psychiatric Residential Treatment Facility (PRTF), a therapeutic group home (TGH) or treatment foster care (TFC). If a TFC placement is used, the foster parents should be especially trained to manage the child’s behaviors, using skill based interventions and supports within a structured home environment. Ideally, the child will be the only child placed in the treatment foster home.

It is also important to explain to the foster parents the differences between having a child placed through the local DSS and a CSA Parental Agreement. For example, the foster parent

must be made aware that the parent retains custody and may remove the child at his/her discretion based on the terms of their CSA Parental Agreement.

Placements through CSA Parental Agreements are not child welfare placements and caution must be exercised to ensure that the child is making progress and will return home. The only reason for the placement is the focus on the child's behavioral treatment, not the parents' needs or inability to care for the child.

9. May a CSA Parental Agreement be used to support a youth's placement in a provider supervised Independent Living Arrangement (ILA) or a hospitalization for physical health reasons?

No. The purpose of CSA Parental Agreements is solely to provide for placement in a mental health treatment setting to address a child's behavioral/emotional needs.

10. May a child step down to a less restrictive treatment setting and still be eligible? Is a new CSA Parental Agreement needed?

Yes, a child being served through a CSA Parental Agreement may step down to a group home or a TFC and remain eligible through a CSA Parental Agreement. However, a new Agreement with the parent(s) is recommended because the child is no longer in the same setting or program.

11. Should children and families receiving Adoption Assistance be served through CSA Parental Agreements?

Receiving Adoption Assistance does not preclude a child and family from receiving CSA services. Adoption Assistance is a funding stream which is explored and if appropriate accessed for service provision.

Questions about how to serve children receiving Adoption Assistance arise in part because of Virginia Department of Social Services (VDSS) guidance that requires requests by families who seek residential treatment to be reviewed by FAPT in the locality of the parents' residence. The purpose of the FAPT review is a multidisciplinary effort to assess and determine if the child can be served in the community or has a higher level of need which should be met in a residential setting. If FAPT does not recommend residential treatment, Adoption Assistance special services payments may not be used to support the placement. This FAPT review is not to determine eligibility for CSA.

If FAPT recommends the placement, the family requests a special services addendum to the Adoption Agreement through the local DSS holding that agreement. Addendums are reviewed and negotiated with the parent by designated state adoption staff. Typically if a child has Medicaid, the only uncovered cost is education.

However, children receiving Adoption Assistance may also be eligible for CSA. For example, CSA remains responsible for a child's educational costs if the child's IEP requires private day placement.

The FAPT may also review the child for other types of CSA eligibility and determine the child is a CHINS and eligible for a CSA Parental Agreement. In this instance, the possibility of using Adoption Assistance special services payments would be pursued, but this allows CSA to assist and pay for costs that Adoption Assistance does not cover. For example, Adoption Assistance does not pay for any group home placements or costs. A group home may be appropriate for a child stepping down from residential, and FAPT could recommend a CSA Parental Agreement for that purpose.

FAPTs are encouraged to work collaboratively with their local DSS agencies to allow the child and family to receive prompt and coordinated services. This may include for example, entering into a short-term CSA Parental Agreement while Adoption Assistance is being arranged.

12. We have a child with an Individualized Education Program (IEP) for private day. The parent has placed the child into a residential program for non-educational reasons without the FAPT's recommendation. Do we need a CSA Parental Agreement?

No. CSA will continue to pay the child's educational costs while in placement because of the private day IEP. However it is a parental placement (not a CSA Parental Agreement) and the CPMT is not responsible for other costs of the placement.

However, if the FAPT makes the determination that the child is in need of the level of care provided by residential treatment, determines the child a "child in need of services," and recommends (and the CPMT authorizes) the residential placement, then it is a CSA placement and a CSA Parental Agreement is used to support the overall placement.

13. What happens if a parent or custodian who signed the CSA Parental Agreement moves to either a different locality or outside of Virginia?

The CSA Parental Agreement model template found on the CSA website addresses the consequences and what actions may be taken in these situations. If a parent moves to a different locality in Virginia, the usual CSA transfer notification (providing a 30 day window) is followed. However, parents should be made aware before signing the CSA Parental Agreement that as Virginia is a locally-administered state, the Agreement is only between that specific locality and the parent/custodian. If a parent/custodian moves within the state, the CPMT in the new locality of residence is not obligated to enter into a new CSA Parental Agreement to continue the child's current placement. For example, the parent/custodian's new residence locality may have more community based services and resources and the FAPT may determine that the child's needs can be met in the community.

As stated in the CSA Parental Agreement template, the agreement is nullified if a parent/custodian moves to another state during the placement. The CPMT that entered into the agreement is under no obligation to continue to fund the placement. It may be advisable to make the parent/custodian aware of this consequence at the time of the signing of the CSA Parental Agreement, and to remind them of this if the parent/custodian mentions the possibility of relocation out of state.

When the locality is made aware of the parent or custodian's relocation to another state while the child remains in the placement, the parent/custodian should be contacted immediately regarding the termination of the agreement.

Obviously, an abrupt discharge of the child from the placement is undesirable, so efforts should be made to prevent this scenario from developing. FAPT and CPMT should exercise their best judgment in managing these discharges, provide for necessary transition, and at no time should a child's health or safety be threatened. If the FAPT determines it is necessary for the child to remain in the placement for treatment or safety reasons, referral should be made to the local DSS and the court regarding the parent/custodian's actions.



Frequently Asked Questions **Originally Issued (2008) – Updated and Revised (August 2019)**

Interagency Guidelines on Foster Care Services for Specific Children in Need of Services Funded through the Children's Services Act and State Executive Council Policy 4.1.1 and 4.1.2

1. Why and how were the “Interagency Guidelines” and the Policy developed?

The State Executive Council (SEC) adopted the Guidelines as policy in December of 2007 in response to the long-standing problem of custody relinquishment, which refers to the practice of parents giving up legal custody of a child to the local Department of Social Services (LDSS) in order to access mental health treatment that the parent is unable to provide for the child. Typically these were children who had chronic and severe emotional/behavioral problems that over time, had “drained” the family both financially and emotionally. Prior to the adoption of the Guidelines, in some areas of the state the Code of Virginia was interpreted that the only means of state-funded access to services, particularly for residential treatment, was for the parent to relinquish custody of the child to the local Department of Social Services (LDSS) to make the child “mandated” (sum sufficient) under the Children’s Services Act (CSA).

The issue of custody relinquishment was the subject of a legislative workgroup in 2005 and in December 2006, the Attorney General rendered an Opinion ([AG Opinion #05-095](#)) regarding the provision of mental health services to children and families under the CSA. The Opinion condemned the practice of custody relinquishment and offered an interpretation of statute which would permit Family Assessment and Planning Teams (FAPTs) to determine eligibility of a child for CSA using the statutory definition of a “child in need of services” (CHINS). Doing so would place the child in the “mandated” CSA population. This opinion and a subsequent follow-up study, conducted by the Joint Legislative Audit and Review Commission (JLARC), was published in March, 2007 ([JLARC Report Custody Relinquishment and CSA](#)) and triggered the development of the Guidelines.

A large interagency workgroup met for several months during 2007 to create not only the Guidelines but the CHINS Eligibility Checklist and the CSA Parental Agreement Template, tools to assist local governments in implementing this new eligibility model. The Guidelines were posted for two periods of public comment, modified, and adopted by the SEC effective December 3, 2007. A statutory change effective July 1, 2008 removed the requirement for a court review for families served through CSA Parental Agreements.

2. Where can I find the Interagency Guidelines, the CHINS Eligibility Checklist and the template for the CSA Parental Agreement?

These documents are all located on the Office of Children’s Services (OCS) website (www.csa.virginia.gov) in the “Resources” folder under “Guidance.” They may be accessed directly at:

[Interagency Guidelines on FC Services for Specific CHINS](#)
[CHINS Eligibility Determination Checklist](#)
[CSA Parental Agreement Template](#)

3. Are services provided through a CSA Parental Agreement considered foster care prevention?

No. The Code of Virginia provides for four separate and distinct types of “foster care services.” ([COV §63.2-905](#)) “Foster care services” are defined as “the provision of a full range of casework, treatment and community services, including but not limited to independent living services, for a planned period of time to a child time to a child who is abused or neglected as defined in [COV §63.2-100](#) or in need of services as defined in [COV §16.1-228](#) and his family when the child...”

- has been identified as needing services to prevent or eliminate the need for foster care placement (*foster care prevention*),
- has been placed through an agreement between the local board or the public agency designated by the Community Policy and Management Team (CPMT) and the parents or guardian where legal custody remains with the parents or guardian (*CSA Parental Agreement or DSS Non-Custodial Agreement*),
- has been committed or entrusted to a local board or licensed child placing agency (*custody granted to the local DSS for placement in an approved setting*)
- has been placed with a relative with the goal of Kinship Guardianship (*placed in an approved relative foster home with the goal of custody transfer*)

These four categories do not overlap or supersede one another; each is “mandated” in its own right.

4. What is the purpose of the CHINS Eligibility Checklist?

The CHINS Eligibility Checklist is used to help a FAPT determine if a child meets the definition of a Child in Need of Services and if the child and family are eligible for services under the Guidelines. Use of the Checklist provides a structured way for the FAPT to discuss, determine, and document if the child meets the statutory definition of a CHINS.

5. If FAPT determines the child meets the criteria as a CHINS and is eligible for services, does the FAPT and/or CPMT have to approve a residential placement and enter into a CSA Parental Agreement?

No. A FAPT may determine that the child's needs can be met in the home and community and offer alternate, community-based services. A CSA Parental Agreement is not required unless the child is placed outside of the home for residential treatment.

6. Why does the Checklist include the two options of "more appropriately" serving a child through the local Department for Social Services or for evaluation in an inpatient treatment facility?

These options were included as necessary actions to be taken if during the FAPT consideration of the child and family, new information came to light regarding an incident of abuse or neglect, or if the FAPT determined that the child's needs were so severe that he/she posed an imminent threat to himself/herself or others.

7. How does FAPT determine the appropriate agency to provide case management services for a child determined to be a CHINS and eligible for services under the Guidelines?

The most important factor in this decision is determining which agency can best meet the needs of the individual child and family. Which agency will have the most expertise and experience in handling the issues this family faces?

While local Departments of Social Services cannot case manage CSA Parental Agreements, it is important that FAPTs work closely with their LDSS partners. If children are unable to return home after placement through a CSA Parental Agreement, then the local department may have to assume custody or work with the family to find an alternative relative placement.

8. Why are there two different types of Agreements (Non-Custodial Foster Care and CSA Parental Agreement) used when a child is placed but the parent retains custody? What are the similarities and the differences between a "Non-Custodial Foster Care Agreement" and a "CSA Parental Agreement"?

Both types of agreements are authorized by the same clause in COV §63.2-905 which provides for either the "local board" (local DSS) or "an agency designated by the community policy and management team" to enter into an agreement with a parent or other legal guardian who retains custody.

Although both types of agreements ensure that the parent or guardian retains legal custody for a child placed out-of-home, Non-Custodial and CSA Parental Agreements are separate types of agreements with significant differences in how they are managed.

If an LDSS enters into an agreement to place the child outside of the home in “24 hour substitute care”, the LDSS is the case managing agency with “placement and care” responsibility for the child and the parent or legal guardian retains custody, then the child is considered to be “in” foster care by the federal government. ([45 CFR 1355.20](#)) All federal and state foster care requirements and protections apply.

If another public agency designated by the CPMT enters into an agreement where the parent/legal guardian agrees to place the child outside of the home for treatment purposes, the public agency has case management responsibility for the child and the legal guardian retains custody, the child is not considered to be in foster care. Children who are placed through CSA Parental Agreements with non-DSS agencies do not meet the federal definition of being in foster care.

Similarities between the two types of Agreements include:

- The purpose is to provide mental health treatment for children with emotional/behavioral disorders where other means of treatment have been exhausted,
- Placements are in mental health treatment settings,
- Parents or legal custodians are willing to work with the agency toward the goal of reunification,
- Placement is a temporary resource to stabilize and treat the child for return home,
- Parent or custodian’s involvement in treatment, visitation and meeting parental obligations is required; and
- Children and families are eligible and mandated for CSA.

Differences between the two types of Agreements are shown below:

CSA Parental Agreements	Non-Custodial Foster Care Agreements
Case-managed by a local agency designated by the CPMT other than the LDSS	Case-managed by the LDSS designated by the CPMT
Although a type of “foster care services” as defined by the Code of Virginia, not considered foster care by the federal government	State child welfare agency and its local counterparts have 24 hour placement and care responsibility; meets federal definition for “foster care” 45 CFR 1355.20
Child is not eligible for Title IV-E	Child’s IV-E eligibility should be determined
No requirement to submit service plan to Court or to attend routine Court hearings	Statutory requirement to submit service plan to Court and to hold routine planning reviews COV §16.1-281 , §16.1-282 , §16.1-282.1

9. Can a local DSS case manage a CSA Parental Agreement?

No. As noted earlier, federal and state law and policy (CSA and DSS) require that foster care protections be provided for a child who is placed outside of the home for treatment reasons when the designated child welfare agency (the LDSS) is working with the family. Federal law does not require that the child be in the custody of the child welfare agency to be considered “in” foster care. Consequently the “Non-Custodial Foster Care Agreement” is the appropriate mechanism for local DSS to enter into agreements with parents/custodians who retain legal custody.

10. Are children placed through CSA Parental Agreements eligible for Medicaid?

Medicaid eligibility should be screened at the type of service initiation for all children served by CSA. If a child is not Medicaid eligible and is placed in a Psychiatric Residential Treatment Facility (PRTF), eligibility should be re-determined after 30 days of placement. Only the child’s income will be counted at that time which typically results in the child becoming Medicaid-eligible.

11. Are children placed in an out of state facility through a CSA Parental Agreement required to go through the Interstate Compact on the Placement of Children (ICPC)?

Yes. A referral must be made to the Virginia DSS Interstate Compact Office and the ICPC process followed as state funds are being used to support the placement. The ICPC staff are familiar with how to work with out of state placements through CSA Parental Agreements. Information about the process and forms may be found at [Interstate/Intercountry Placement of Children \(ICPC\) - VDSS](#). The ICPC office may be reached at (804) 726-7581 or by e-mail at vaicpcoffice@dss.virginia.gov .