



Frequently Asked Questions Parental Agreement

of the

*Interagency Guidelines on Foster Care Services for Specific Children in Need of Services
Funded through the Comprehensive Services Act*

1. What is the difference between a “Non-Custodial Foster Care Agreement” and a “CSA Parental Agreement?”

Although both types of agreements ensure that the parent retains legal custody for a child placed out-of-home, non-custodials and parental agreements are separate types of agreements with significant differences in the provision of services. The underlying fundamental difference is that a child placed through a “non-custodial” with the local Department for Social Services (LDSS) is considered to be in foster care by federal* and state government and consequently all federal and Code of Virginia requirements and benefits apply. Children who are placed through CSA parental agreements with non-DSS agencies do not meet the federal definition of being in foster care. The chart below displays the differences between the two types of agreements.

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 statutory requirement for the agency to refer to the Division of Child Support Enforcement; parental co-pay should be assessed | Statutory requirement for the LDSS to refer to the Division of Child Support Enforcement COV 63.2-910 |
| 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 ; COV 16.1-282 ; COV 16.1-282.2 |

* 45 CFR 1355.20 defines foster care as “24-hour substitute care for children placed away from their parents or guardians and for whom the State agency has placement and care responsibility...” The child does not have to be in the legal custody of the agency.

2. Isn't court involvement required with CSA Parental Agreements? Do families with children who are placed through Parental Agreements have to go to Court?

No. At the time the Guidelines were first approved (12/07) the language in Code required that all children served through agreements between an agency designated by the CPMT and a parent, where the parent retains legal custody, were subject to the same requirements as children in foster care, i.e., a service plan had to be submitted to the Court and routine Court reviews were held. Effective July 1, 2008 the Code was changed to require that only children placed by DSS where the parent retains legal custody (i.e., “Non-custodial Foster Care Agreements”) are subject to Court review. Placement of a child through a CSA Parental Agreement does not require Court involvement.

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

Medicaid eligibility should be screened for all children served by CSA. If a child is not Medicaid eligible and is placed in a Level 2 facility, (psychiatric residential treatment facility) after 30 days, only the child's income will be counted and he or she should be reassessed for Medicaid eligibility.

4. A FAPT determines a child eligible to receive services under the Guidelines. The FAPT recommends services provided in the child's home, i.e., foster care prevention. Does a Parental Agreement have to be signed if the child remains at home and receives foster care prevention services?

No. A Parental Agreement is only needed if, after eligibility is determined, the parents and FAPT agree that an out-of-home placement is necessary to meet the child's treatment needs.

5. Do I have to have a Parental Agreement if a child is a CSA Special Education residential placement?

No. Refer to pages 1-2 of the Guidelines listing “Children for whom the guidelines do not apply.” Children who are eligible for special education services through CSA (§2.2-5211C subdivisions B1 and B2.) are specifically noted. Services continue for this population of children as they did prior to the Guidelines.

6. Are children placed out of state through CSA Parental Agreements required to do so through the Interstate Compact on the Placement of Children (ICPC)?

Yes. The ICPC process should be followed whenever CSA funds are used for a child placed out of the state.

7. Should a referral be made to the Division of Child Support Enforcement (DCSE) for parental placement agreements?

The Code states the following “Responsible persons shall pay child support for a child placed in foster care through an agreement where legal custody remains with the parent or guardian pursuant to subdivision 4 of § [16.1-278.2](#) or § [63.2-900](#), from the date that the child was placed in foster care. The agreement between the parents and the local board or public agency shall include provisions for the payment of child support. In fixing the amount of support, the court, the Division of Child Support Enforcement, the local board or the public agency shall consider the extent to which the payment of support by the responsible person may affect the ability of such responsible person to implement a foster care plan. If the responsible person fails or refuses to pay such sum on a timely basis, the local board or public agency may petition the juvenile court to order such payment.” ([COV 16.1-278.2](#))

Under CSA, “Nothing in this section prohibits local governments from requiring parental or legal financial contributions, where not specifically prohibited by federal or state law or regulation, utilizing a standard sliding fee scale based upon ability to pay, as provided in the appropriation act.” ([COV 2.2-5211.C](#))

The Parental Agreement contains a “Fiscal Authority/Payment Terms” section which addresses the financial responsibility of the parent. This section must be reviewed and discussed with parents prior to signature of the agreement.