

## POLICY 4.2

### PAYMENT FOR SERVICES AND CHANGE OF LEGAL RESIDENCE

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#### 4.2.1 Purpose

To provide guidance to local Children’s Services Act (CSA) programs regarding the processes related to the transfer of CSA cases upon the notification of a family’s change of legal residence.

#### 4.2.2 Authority

- A. Section [2.2-2648.D.9](#) of the Code of Virginia requires the State Executive Council to “provide administrative support and fiscal incentives for the establishment and operation of local comprehensive service systems.”
- B. Section [34 CFR 300.323\(e\)](#) of the Individuals with Disabilities Education Act directs that “IEPs for children who transfer public agencies in the same State. If a child with a disability (who had an IEP that was in effect in a previous public agency in the same State) transfers to a new public agency in the same State, and enrolls in a new school within the same school year, the new public agency (in consultation with the parents) must provide FAPE to the child (including services comparable to those described in the child’s IEP from the previous public agency), until the new public agency either:
  - (1) Adopts the child’s IEP from the previous public agency; or
  - (2) Develops, adopts, and implements a new IEP that meets the applicable requirements in [§§300.320](#) through [300.324](#).”
- C. [8VAC20-81-120.A.2](#) of the Code of Virginia requires that “Children with disabilities who transfer between local educational agencies in Virginia or transfer from a local educational agency outside of Virginia to a local educational agency in Virginia within the same school year are subject to the following provisions. (34 CFR 300.323(e), (f), and (g))
  - 1. The new local educational agency shall provide a free appropriate public education to the child, including ensuring that the child has available special education and related services, in consultation with the parent(s), including services comparable to those described in the child's IEP from the previous local educational agency, until the new local educational agency either:
    - a. Adopts and implements the child's IEP from the previous local educational agency with the parent's consent; or
    - b. Conducts an evaluation, if determined necessary by the local educational agency, and develops and implements a new IEP with the parent's consent that meets the requirements in this chapter.”

### 4.2.3 Definitions

*“Community Policy and Management Team (CPMT)”* is the entity that develops, implements, and monitors the CSA local program through policy development, quality assurance, and oversight of functions.

*“Free appropriate public education”* or *“FAPE”* means special education and related services that: (34 CFR 300.17) 1. Are provided at public expense, under public supervision and direction, and without charge; 2. Meet the standards of the Virginia Board of Education; 3. Include an appropriate preschool, elementary school, middle school or secondary school education in Virginia; and 4. Are provided in conformity with an individualized education program that meets the requirements of the Regulations Governing Special Education Programs for Children with Disabilities in Virginia.

*“Former CPMT”* is, for the purpose of this policy, the CPMT from the locality where a family resides prior to a change of address.

*“Individualized Education Program”* or *“IEP”* is a written statement for a child with a disability that is developed, reviewed, and revised in a team meeting in accordance with the Regulations Governing Special Education Programs for Children with Disabilities in Virginia. The IEP specifies the individual educational needs of the child and what special education and related services are necessary to meet the child's educational needs. (8VAC20-81-10)

*“Individual Family Service Plan (IFSP)”* is a plan developed during the Family Assessment and Planning Team (FAPT) process that incorporates the results of the mandatory uniform assessment, input of the youth and family, and other information to document goals, objectives, specific interventions/activities, and services recommended by the FAPT.

*“Local Education Agency”* or *“LEA”* means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in a city, county, township, school district, or other political subdivision of a State, or for a combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary schools or secondary schools (34 CFR 303.23).

*“New/Receiving CPMT”* is, for the purposes of this policy, the CPMT from the locality where a family resides following a change of address.

## 4.2.4 Payment for Services

The CPMT jurisdiction where the child legally resides shall be responsible for payment for the services identified in the child/family's Individual Family Service Plan for 30 calendar days after the new CPMT receives written notification of the child/family's residence in the new CPMT locality, except for private special education services as detailed in section 4.2.6. of this policy.

## 4.2.5 Change of Legal Residence – Non-Special Education Services

- A. Issues of legal residence should be addressed by the legal counsel assigned to the CPMT. If the child/family's legal residence changes, the following shall govern payment for services:
  1. The Former CPMT is responsible for:
    - a. Providing written notification to the New/Receiving CPMT of the fact that the child/family's residence has changed after obtaining proper consent from the parent or legal guardian(s) of the child.
    - b. Forwarding the child's/family's IFSP and other FAPT or MDT documents to the New/Receiving CPMT.
    - c. Informing current service providers of changes in the child/family's residence.
    - d. Paying for services for 30 calendar days after the New/Receiving CPMT receives written notification of the child/family's change of residence.
  2. The New/Receiving CPMT is responsible for reviewing the current IFSP and adopting (or revising) and implementing the IFSP within 30 calendar days of written receipt of the notification of the child/family's residence in their locality.
  3. CPMT jurisdictions are encouraged to:
    - a. Keep track of the child/family's residence status.
    - b. Notify New/Receiving Community Policy and Management Teams as soon as they know of the child/family's pending move to facilitate planning.
    - c. Work cooperatively to resolve issues related to legal residence.

## 4.2.6 Change of Legal Residence – Private Special Education Placements

- A. Issues of legal residence should be addressed by the legal counsel assigned to the CPMT/Local Education Agency. If the child/family’s legal residence changes, the following shall govern payment for services:
1. The Former CPMT is responsible for:
    - a. Providing written notification to the New/Receiving CPMT of the fact that the child/family’s residence has changed.
    - b. Forwarding child’s/family’s IEP/IFSP and other FAPT or MDT documents to the New/Receiving CPMT jurisdiction.
    - c. Informing private special education service providers of changes in the child/family’s residence.
    - d. Fund educational services until the student no longer resides within the jurisdiction of the prior Local Education Agency.
  2. CPMTs are encouraged to:
    - a. Include language in their contracts with private special education providers indicating that they (the local CSA program) are responsible for payment for such services only while the student is a resident of that jurisdiction.
    - b. Notify, in writing, the parents of students receiving private special education services, that if the parent relocates to another jurisdiction, responsibility for their child’s IEP falls to their new jurisdiction of residence and they need to immediately enroll their child in the Local Education Agency where they now reside.
  3. The New/Receiving CPMT is responsible for:
    - a. Notifying their Local Education Agency that a student has transferred into their locality.
    - b. Begin funding educational services when the student resides within the new school division.
  4. CPMT jurisdictions are encouraged to:
    - a. Keep track of the child/family’s residence status.
    - b. Notify New/Receiving Community Policy and Management Teams as soon as they know of the child/family’s pending move to facilitate planning.
    - c. To work cooperatively to resolve issues related to legal residence.

## **4.2.7 Policy Review**

This policy will be subject to periodic review by the State Executive Council for Children's Services.