

POLICY 4.6

DENIAL OF FUNDS

4.6.1 Purpose

To provide guidance to local Children's Services Act (CSA) programs about the denial of CSA state matching funds.

4.6.2 Authority

- A. Section [2.2-2648.D.3](#) of the Code of Virginia requires the State Executive Council to “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.”
- B. Section [2.2-2648.D.20](#) of the Code of Virginia requires the State Executive Council to “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](#).”
- C. [Item 268, B. 1. e. of the Virginia Appropriation Act](#) states that “The Office of Children's Services, per the policy of the State Executive Council, shall deny state pool funding to any locality not in compliance with federal and state requirements pertaining to the provision of special education and foster care services funded in accordance with § [2.2-5211](#), Code of Virginia.”
- D. Section [37.2-405](#) of the Code of Virginia (Behavioral Health and Developmental Services) requires that:
 - A. “No provider shall establish, conduct, maintain, or operate or continue to operate in the Commonwealth any service, without being licensed under this article, except where the provider is exempt from licensing.
 - B. No license issued under this article shall be assignable or transferable.
 - C. No person shall be admitted, placed, treated, maintained, housed, or otherwise kept, voluntarily or involuntarily, by any provider required to be licensed by subsection A, unless and until the provider is licensed by the Commissioner.”

- E. Section [16.1-309.9. A.](#) of the Code of Virginia requires the State Board of Juvenile Justice to "... develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by this article. The State Board shall also approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs." Additionally, [§16.1-309.9.B](#) states that the State Board of Juvenile Justice may "...prohibit, by its order, the placement of juveniles in any place of residence which does not comply with the minimum standards. It may limit the number of juveniles to be detained or housed in a detention home or other facility and may designate some other place of detention or housing for juveniles who would otherwise be held therein."
- F. Section [63.2-217](#) of the Code of Virginia authorizes the State Board of Social Services to "...adopt such regulations, not in conflict with this title, as may be necessary or desirable to carry out the purpose of this title." Additionally, [§63.2-1734](#) directs that the State Board of Social Services "...shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies." [§63.2-1701.B](#) directs that "Every person who constitutes, or who operates or maintains, an assisted living facility, adult day center, or child welfare agency shall obtain the appropriate license from the Commissioner, which may be renewed." Furthermore, [§63.2-1737](#) directs that the State Board of Social Services "shall adopt regulations establishing the Department as the single licensing agency for the regulation of children's residential facilities, including group homes, which provide social services programs, with the exception of educational programs licensed by the Department of Education and facilities regulated by the Department of Juvenile Justice."
- G. Section [22.1-289.046](#) of the Code of Virginia requires the Virginia State Board of Education to "...adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this chapter, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the control of such persons or agencies." Additionally, [§22.1-323.A.](#) directs that "No person shall open, operate, or conduct any school for students with disabilities in the Commonwealth without a license to operate such school issued by the Board. A license shall be issued for a school if it is in compliance with the regulations of the Board issued pursuant to this chapter, any fee for such license has been paid, and its facilities are approved by the Board after an inspection by the Department." Furthermore, [§2.2-5211](#) requires that CSA funds for private special education services "shall only be expended on private educational programs that are licensed by the Board of Education or an equivalent out-of-state licensing agency."

Adopted: TBD

Effective: TBD

Revised: 2026

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4.6.3 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.

“CSA State Matching Funds” is the state share of the financial contributions provided by localities through the Children’s Services Act, as determined by the established state and local CSA state match rates.

“Local Expenditure and Data Reimbursement System (LED RS)” is the required electronic system for reporting state CSA reimbursements and for data collection by local governments.

“Family Assessment and Planning Team (FAPT)” implements the CSA by recommending services for children and families. The team considers every child and family's strengths and challenges to address their specific needs as best they can. Families are included in all FAPT assessments, service planning, and decision-making.

“Multidisciplinary Team (MDT)” is an alternative to a “standard” FAPT that provides an option to local CSA programs to provide review and recommendations for an identified group or type of cases, and can complete all of the statutory duties of a standard FAPT, including recommending services for authorization by the CPMT.

“Office of Children's Services (OCS)” serves as the administrative entity of the executive branch of state government and the SEC to ensure that the decisions and policies of the Council are implemented in accordance with the powers and duties granted by statute in the Code of Virginia.

“Participating Agencies,” for the purpose of this policy, refers to any state or local child-serving agencies represented in the CSA system of care. These include, but are not limited to, the Department of Social Services, the Department of Education, the Department of Behavioral Health and Developmental Services, the Department of Medical Assistance Services, the Department of Juvenile Justice, local court services units, local school divisions, local departments of social services, and community services boards or behavioral health authorities.

4.6.4 Denial of CSA State Matching Funds

~~All of the requirements specific to the CSA are outlined in the Code of Virginia and the Appropriation Act. The statutory requirements and authority of the Council ([§2.2-2648](#)), the State and Local Advisory Team ([§2.2-5202](#)), the OCS ([§2.2-2649](#)), the local Community Policy and Management Team ([§2.2-5206](#)), and the local Family Assessment and Planning Team ([§2.2-5208](#)) are described. Additional requirements are found in the CSA ([§2.2-5200 et. seq.](#)), the Appropriation Act and Council policy. Violations of any state or federal law or policy may result in denial of funds.~~

~~Denials of CSA state matching funds are based on a locality's failure to comply with, or violations of, statutory requirements and/or policy, whether they are specific to the CSA or are those promulgated by the participating agencies.~~

- A. *Denials of CSA state matching funds are based on a locality's failure to comply with, or violations of, statutory, regulatory, and/or policy requirements, whether they are specific to the CSA or are promulgated by the participating agencies.*
- B. Any service ~~which~~ *that* requires licensure can only be rendered by a provider licensed to provide that service in Virginia *or, for private special education services, by the Board of Education or an equivalent out-of-state licensing agency.* ~~State law requiring licensure of providers may be found at §37.2-405. (NOTE: This citation is specific to services licensed by the Virginia Department of Behavioral Health and Developmental Services. §16.1-309.9 authorizes the Department of Juvenile Justice to regulate community-based facilities and services; §§ 63.2-217, 63.2-1732, 63.2-1733, 63.2-1734 authorize the State Board of Social Services and Child Day Care Council to regulate facilities and agencies serving adults and children; §22.1-323 authorizes the Board of Education to license private schools for students with disabilities.)~~
- C. Any state or local agency, or CPMT, that has cause to believe that the statutory requirements of CSA, including those relating to licensure, are not being met *for CSA-funded services by a locality* shall contact the Executive Director of the OCS. State agencies are responsible for notifying the OCS when a provider *licensed by that agency* loses its license or is subject to an adverse licensure action, even if that provider is not currently billing for CSA-funded services. OCS will make reasonable efforts to notify localities of such actions.
- D. Copies of *annual local Single Audit and Annual Comprehensive Financial Reports*, which include a review of CSA funding, must be provided to the OCS within three business days from presentation to the local governing body. If the local audit determines that services provided that affect CSA, for example, Title IV-E, were inappropriate, the locality must inform the OCS.

4.6.5 Investigating Suspected Non-Compliance

~~Steps A-F outline the procedures followed to investigate suspected or determined non-compliance by a locality.~~

- A. The OCS will investigate the issue ~~complaint~~ by reviewing available data, including but not limited to documentation submitted *with the report* ~~by the complainant~~, CSA data set

LEDRS Data and CSA state matching funds reimbursed to the locality ~~fiscal pool fund reporting reimbursement~~, local financial and program records, including CPMT and FAPT/MDT minutes, *relevant licensure data bases*, other information supplied by the locality and interviewing appropriate individuals, if necessary. The OCS may consult with the Office of the Attorney General and any other parties it deems appropriate.

- B. State and local agencies, including ~~the one those~~ reporting ~~the alleged potential inappropriate use of funds violations~~, shall supply any necessary and/or requested supporting documentation relevant to the ~~allegation situation~~.
- C. If the OCS is unable to determine the validity of the report or determines there was no violation, the incident is closed with notification to the reporting ~~state~~ agency and the CPMT in question.
- D. If the OCS suspects non-compliance but has not yet made *such* a determination, ~~of such~~, the OCS shall communicate with the chief administrative officer of the locality and the CPMT Chair, as appropriate, to resolve the issue.
- E. If the OCS determines that a violation of state law or policy, or any federal law pertaining to the provision of any service funded in accordance with [§2.2-5211](#) has occurred, the OCS will notify the chief administrative officer of the local government and the CPMT chair within five (5) business days. The OCS will request *that* the locality immediately discontinue ~~that practice~~ *the identified service*, and the locality should notify any affected providers *and service recipients*. The OCS will also describe ~~the~~ any *additional* actions it intends to take, if any. Such actions may include, but ~~is~~ *are* not limited to, a corrective action plan developed in consultation with the locality and/or denial of state funding. Failure of the OCS to meet the *five-day* timeline does not ~~preclude~~ *prevent* the OCS from denying funds or recovering payments.
- F. If another state *or local* agency learns during the course of its work (routine reviews, audits, complaint investigations, etc.) of a violation of state law affecting the provision of services under the CSA, the agency shall contact the *Executive Director of the OCS*. They shall ~~and~~ explain what agency policy or federal or state law is involved, how the other agency believes the violation has occurred, and the impact of, or relationship to, the CSA.
- G. If the OCS becomes aware of a violation of another agency's laws, policies, or requirements that affects the provision of services funded by the CSA, the Executive Director (or designee) will contact the ~~appropriate staff person at the~~ other agency. The OCS will provide any supporting documentation requested by the other agency.

- H. The OCS may review payments and conduct audits for a period of time, three years before or after the date of the alleged noncompliance (not to exceed a total of three years), regardless of the date of discovery of the alleged noncompliance.
- I. Should the OCS discover noncompliance, the OCS may request that the Auditor of Public Accounts (APA) or the Office of the Inspector General (OSIG) determine whether to ~~pursue~~ request an *independent* audit or investigation of a locality. This policy should not be construed to put any limitations on the APA, OSIG, or other parties that have responsibilities regarding the *use of* Commonwealth's or federal funds and their investigation of the use of those funds.

~~This policy takes effect July 1, 2011. Pursuant to [§2.2-2648](#), the OCS may deny funding to local governments not in compliance with the provisions of the CSA and federal and state law.~~

4.6.6 Policy Review

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