



COMMONWEALTH of VIRGINIA

OFFICE OF CHILDREN'S SERVICES *Administering the Children's Services Act*

SCOTT REINER, M.S.
Executive Director

Administrative Memo #18-01

To: CPMT Chairs
CSA Coordinators

From: Scott Reiner, Executive Director 

Date: January 11, 2018

Subject: Parental Consent for Information Sharing for CSA Special Education Funding

This office has received several inquiries concerning circumstances in which parents/legal guardians of students referred to local CSA programs for funding of private special education programs per their IEPs are refusing to sign a consent to share information between the school and the local CSA office.

Consultation with the Office of the Attorney General has confirmed the following:

1. Without parental consent, local school divisions cannot share student's educational records (including IEPs) with CPMTs. This includes the student's "directory information" as well as the educational record. Such disclosure without consent would constitute a violation of the Family Educational Rights and Privacy Act (FERPA).
2. Without such information, CPMTs cannot verify that the students are statutorily eligible for CSA funded services and would therefore be unable to authorize the use of CSA funds to cover the costs of private educational placements required by the student's IEP. The local school division would be responsible for the costs in order to provide a Free and Appropriate Public Education (FAPE) for these students under the federal Individuals with Disabilities Education Act (IDEA).
3. Section 2.2-5209 of the Code of Virginia contemplates this scenario and states: "In cases involving the denial of state pool funds resulting from parental refusal to consent to release of student records under federal law, where such refusal precludes the development of placement through the family assessment and planning team process or the approved collaborative, multidisciplinary team process, an appeal for good cause may be made to the [State Executive] Council." Local school divisions could thus appeal

the denial of CSA funds in these cases, however the State Executive Council would still be bound by the statutory requirements for verification of eligibility and funding under the CSA. Local school divisions would need to consult with their own legal counsel to determine what remedies, if any, may be available to them.

Therefore, without parental consent allowing the school division to disclose to the CPMT student's educational information and records that are necessary for the CPMT to (i) verify the student's eligibility for CSA funds and (ii) to submit the proper information about such student in the CSA data system (e.g., name, date of birth, Student Testing Identifier), CSA must deny funding for these placements.

This supersedes any previously issued guidance on this matter and will be applied prospectively from the date of issue of the Administrative Memorandum. Currently funded cases through CSA can be continued until the end of the current school year, at which time the provisions of this Memorandum would take effect.

Thank you for your attention to this matter.