



“Protected” State Pool Funding Frequently Asked Questions (FAQ)

Acronyms used in this FAQ

CHINS – Child in Need of Services
CPMT– Community Policy and Management Team
COV – Code of Virginia
CSB – Community Services Board
CSU – Court Service Unit
DJJ – Department of Juvenile Justice
FAPT – Family Assessment and Planning Team
IEP – Individualized Education Program
LEDRS – Local Expenditure, Data, and Reimbursement System
OCS – Office of Children’s Services
SEC – State Executive Council for Children’s Services
SLAT – State and Local Advisory Team for the CSA

Terminology

In the CSA, the terms “mandated” and “non-mandated” are used historically to refer to both eligible populations of children and funding streams. Typically, “mandated” has defined children eligible for sum-sufficient funding as defined in the Code of Virginia §2.2-5211 and the funding to provide services to those children. The language states explicitly: “The General Assembly and the governing body of each county and city shall appropriate such sums as shall be sufficient to (i) provide special education and foster care services for children and youth identified in subdivisions B 1, B 2, and B 3 and (ii) meet relevant federal mandates for the provision of these services.” Hence, the origin of the term “mandated.”

“Non-mandated” has referred to children (and funding for those children) who, while statutorily eligible for CSA, do not meet the definition for sum-sufficient funding as found in subdivisions B 4 and B5 of COV §2.2-5211.

COV §2.2-5212 provides additional definitions of the population of children and families eligible for CSA State Pool funded services (whether sum sufficient or non-sum sufficient).

For clarity and conformity with terminology found in the Code and the policies of the State Executive Council for Children’s Services (SEC), the term “sum-sufficient” will be used in this document (and in other CSA-related sources) to describe the funding stream and population of children who shall receive sum-sufficient CSA state pool funding (previously referred to as “mandated”). The term “non-sum sufficient” will be used to describe the (formerly labeled)

“non-mandated” population of children and youth eligible for the CSA. The word “Protected” is used to describe the CSA state pool funds available to the “non-sum sufficient” population.

In its 2019 work on this issue, the State and Local Advisory Team for the CSA (SLAT) suggested that the terms “mandated” and “non-mandated” be “phased out” to improve access of all eligible children and families to CSA state pool funded services. The terminology described here reflects that recommendation.

Questions & Answers

1. What are CSA “Protected” funds?

“Protected” funds are a component of a locality’s CSA annual pool allocations. They are available to serve CSA-eligible children and youth not eligible for sum sufficient CSA funding. That is, they are non-sum sufficient. “Protected funds” were initially established by SEC policy in 1994, just one year after the implementation of the CSA. This action was due to the concerns of various stakeholders that no CSA State Pool funds would be utilized to serve CSA eligible, but non-sum sufficient children.

The specific language of SEC Policy 4.5.1 (Protected Funds) is:

“Each year, localities may protect a specific amount of the total state pool for providing services to the targeted non-mandated and other populations. The amount each locality is permitted to protect is determined by a formula¹ and is in no case less than \$10,000. Each locality is notified if its protection level before the beginning of each fiscal year.”

Presently the total amount of state funds that are in the protected amount of the annual CSA state pool appropriation is \$14,464,225. Amounts for State Fiscal Year 2020 vary from \$10,000 to \$1,630,458. The average amount is \$111,263 and the median is \$34,196.

2. Why are there two different funding categories, sum-sufficient and “Protected” for the provision of services to children who are eligible for CSA?

When the CSA was established, four child-serving state agencies contributed (redirected) funds to the “state pool” from existing funding streams. Each of these seven funding streams had a specific purpose. For example, the Virginia Department of Education (VDOE) contributed funds known as “private tuition assistance,” designated to serve students with disabilities who required a private day or residential setting to meet their educational needs.

The Code of Virginia establishes that children who would have been eligible for any of the original seven funding streams placed in the CSA state pool are *eligible* for CSA (COV §2.2-

¹ The formula (last revised by the SEC in 1997) was based on a percentage of the locality’s total state pool allocation. The total Protected amount (\$14.5 million) and each localities amount has not been changed since 1997.

5211). Eligibility was also extended to include children with significant emotional/behavioral needs who meet specific criteria (COV 2.2-5212 A. 1 and 2).²

COV §2.2-5211 establishes how *fund*ing for the various eligible populations is appropriated and, as described in the opening section of this FAQ, defines the specific populations to receive sum sufficient funding. These include children who have an Individualized Education Program (IEP) that requires placement for purposes of special education in approved private school educational programs and children receiving foster care services as defined in COV §63.2-905.

The sum sufficient language does not apply to children meeting any other CSA eligibility criteria, including those children with emotional/behavioral needs, referred to CSA by a court service unit, community services board, or a parent/legal guardian. Funding for the provision of services to this non-sum sufficient group of children is at the discretion of the local CSA program.

3. How did this distinction in eligibility result in the creation of Protected funds?

Because of concern that the sufficient sum requirement for foster care and special education services would exhaust the local CSA allocation, the decision was made to set aside a portion of the allocation that was “protected” to use only for those children and youth who were non-sum sufficient.

4. Who is eligible for services with Protected funds?

Children and youth who are eligible for CSA by having emotional/behavioral needs which meet criteria described in COV §2.2-5212 A. and B., such as multiagency involvement or imminent risk of residential placement.

5. What types of services may be purchased with Protected funds?

The use of CSA funds is not limited to specific types or “lists” of services, supports, or interventions. CSA funds, whether sum-sufficient or protected, may be used to purchase any service recommended by the Family Assessment and Planning Team (FAPT) and approved by the Community Policy and Management Team (CPMT) if all CSA requirements are followed.

Services purchased with Protected funds are typically provided in the community but may be utilized for out-of-home placement. Please note that many children in need of residential treatment for emotional/behavioral needs will meet the criteria for a Child in Need of Services (CHINS) and are eligible for sum sufficient funding. (See Footnote 2)

² Following the issuance of a 2006 Opinion from the Attorney General of Virginia, eligibility to CSA sum sufficient funds was extended (by SEC Policy 4.1.1) to children meeting the definition of a Child in Need of Services (CHINS).

6. How is the amount of Protected funding determined for my locality?

A formula determines the amount of Protected funds. See Question 1 and Footnote 1 for more detail. The CSA LEDRS system will only allow a locality to utilize the Protected funds allocated to it, nothing above the allocation.

7. How do I know how much my locality receives in Protected funds?

Locality allocations, including the amount of Protected funds, are on the OCS website (www.csa.virginia.gov). To see your locality's Protected amount, select "Statewide Statistics" then "Pool Fund Expenditure Reports." Under "Locality Reports," select "Allocation for non-sum sufficient youth (Protection Amount)" to see a list of all localities and amounts for the current fiscal year.

8. Is a local match required for the use of Protected funds?

Yes, the same local CSA match is required for sum sufficient and Protected funds. As with sum sufficient funds, the base local match rate is adjusted depending on the type of services the child and family are receiving (e.g., community-based, residential).

9. Do the same CSA requirements for the use of sum-sufficient funds (e.g., FAPT recommendation, CPMT approval) apply to Protected funds?

Yes, the CSA process to access and use Protected funds is the same as for sum sufficient funding.

10. If a locality does not use its Protected amount to support services for non-sum sufficient populations, may that amount be used to serve their sum sufficient populations?

Yes. A locality may choose to utilize its entire CSA State Pool funding allocation (including the Protected allocation) to serve sum sufficient populations. There is no requirement that the Protected amount is used for non-sum sufficient children and families.

11. Some localities do not expend their Protected funds on the non-sum sufficient population. Why would a locality make this choice??

There are a variety of reasons, including finances, why a locality may opt not to use their Protected funds to serve non-sum sufficient children and families. Local governments are required to provide local matching funds for sum-sufficient services for children and youth receiving foster care and private special education services. Most fully utilize or exceed the funds they have budgeted to support the local CSA program. Any local match requirements for the non-sum sufficient funding represents additional, but not legally required expenditures. As sum sufficient costs are essentially "uncapped," a locality may be hesitant to commit local funds to match the Protected amount for services for non-sum sufficient youth. The local governing body may not be willing to appropriate additional local matching funds as the services are not legally required, that is, mandated.

Another reason for failing to use Protected funds is that over the years, other funding streams or mechanisms have emerged or been identified as appropriate to serve non-sum sufficient youth. Examples include the Mental Health Initiative funds administered by the local Community Services Boards, the Virginia Juvenile Community Crime Control Act (VJCCC), and funding for evidence-based services through the Department of Juvenile Justice (DJJ).

In 2007, the SEC adopted a policy that allows for a child with significant behavioral/emotional needs to be determined as a “child in need of services” (see Footnote 2). This policy resulted in some children who were previously in a non-sum sufficient eligibility category to be in the sum sufficient population by the local FAPT using the CHINS Checklist. Children who meet the criteria in the CHINS Checklist are eligible for sum sufficient funding under the definition of “foster care services” found in COV §63.2-905. Either community-based services or out of home placement for mental health treatment may be funded while the parent retains legal custody.

In 2009, the Appropriation Act began requiring the utilization of Medicaid funds before CSA funds if a Medicaid funded service is available and appropriate for the child. This is another source of funding that may be used to meet the needs of non-sum sufficient youth who are Medicaid members.

Finally, some localities voice that the amount of available Protected funding is negligible for their community. The available funding would only be enough to pay for minimal services resulting in the need to locate another funding source to complete service provision for a child and family.

12. Must a locality obligate or expend its entire Protected amount before requesting supplemental CSA funding for its sum sufficient populations?

No. Supplemental reimbursements allow local governments to request additional funds from OCS to meet the sum sufficient requirements for children receiving special education and foster care services. A local government is not required to obligate or expend its Protected funds before requesting supplemental CSA State Pool funding.

13. Can a locality still request a state match for the Protected amount if the local government has expended its local match for its sum sufficient allocation and supplemental requests?

Yes, the state match is available even if the local government has exceeded its state allocation for sum sufficient services. The local government will, of course, have to allocate additional local match.

14. If the CPMT authorizes the expenditure of Protected funding, how is reimbursement claimed on the Pool Fund Expenditure Report?

Requesting reimbursement requires using the appropriate coding in the LEDRS reimbursement submission. Use Primary Mandate Type (PMT) #11 (“Non-mandated”),

Expenditure Code “1d” for residential services, and Expenditure Code “3” for community-based services. Utilize the appropriate Service Placement Type (SPT) and Service Name as for any service for which reimbursement is requested.

15. Are CSA administrative funds the same as Protected funds?

No, CSA administrative funds are a separate source of funds to assist local governments in the implementation of the local CSA. Administrative funds are used to support CSA Coordinator salaries or for typical overhead costs such as office space, supplies, training costs, and staff travel. These funds are not child-specific and cannot be utilized to provide direct services to children and families. Each local CPMT determines how they will use administrative funds.