



COMMONWEALTH of VIRGINIA

Office of the Governor

Aimee Rogstad Guidera
Secretary of Education

November 1, 2022

The Honorable Barry D. Knight
Chair
House Appropriations Committee
Pocahontas Building
13th Floor
900 East Main Street
Richmond, VA 23219

The Honorable Janet D. Howell
Chair
Senate Finance Committee
Pocahontas Building
14th Floor
900 East Main Street
Richmond, VA 23219

Dear Delegate Knight and Senator Howell:

Pursuant to SB1313 and HB2117, 2021 Special Session I, we write to update you on the development of a detailed plan to consider the administration and use of Children's Services Act (CSA) funding for private special education day schools and residential facilities.

We are grateful for the time and expertise dedicated by all stakeholders in this effort, especially those who served on the work group, presented to the work group, and provided public comment to the work group. These stakeholders include parents, private day providers, local school division leadership including special education directors, local CSA coordinators, local governments including departments of family services and human services, associations representing individuals and students with disabilities, and state officials. We also appreciated the opportunity to continue our learning through conversations and site visits between work group meetings. We know that we are all motivated by our foremost, shared goal—best serving individuals and students with disabilities.

The work group convened for 12 meetings over 25 hours beginning in June 2021 and concluding October 14, 2022. The work group's final report with votes recorded on each recommendation is attached here. Significant deliberation and discussion spanned the entire period of the work group and work group members identified multiple topics in need of additional exploration. While all recommendations received more yes votes than no votes, there were ten members of the work group who were not present, including the critical voices of

multiple parents and special education directors, as well as six consistent vote abstentions. This context is important in evaluating potential action upon the work group's recommendations.

Recommendation 1.1: Transfer funds to the Virginia Department of Education (VDOE) effective July 1, 2024.

Vote Totals: Yes (9), No (4), Abstain (9), Not present (10)

Recommendation 1.2: Language should direct VDOE to administer funding in a manner that:

- 1. Funds services for students with highest support needs who are at risk of or in an out-of-public-school placement***
- 2. Ensures that funds are equally accessible to all school divisions***
- 3. Minimizes the fiscal impact of the new funding structure on localities***
- 4. Accounts for how the state and local governments and local educational authorities (LEA) will ensure funding sufficient for services to meet all federal and state requirements under the Individuals with Disabilities Education Act (IDEA).***

Vote Totals: Yes (16), No (0), Abstain (6), Not present (10)

Recommendation 1.3: The amount transferred, that shall be sum sufficient, should be determined by the General Assembly and the Governor, in consultation with the Department of Planning and Budget (with consideration of historical expenditure patterns).

Vote Totals: Yes (16), No (0), Abstain (6), Not present (10)

Recommendation 1.4: The language should ensure that existing Special Education Wraparound funds for services delivered in the home and community are retained within the CSA.

Vote Totals: Yes (16), No (0), Abstain (6), Not present (10)

Regarding Recommendations 1.1, 1.2 1-4, 1.3, and 1.4, members of the work group shared concerns that the Office of Children's Services' (OCS) administration of CSA is designed to be narrowly focused on fiscal management and its mission does not include responsibility for the quality of the services provided to students, as OCS and the local Community Policy Management Teams have limited ability to provide programmatic technical assistance and oversight. Other members discussed the programmatic technical assistance and oversight currently provided by VDOE and expressed concerns regarding scope, implementation, and impact of the proposed differences in oversight, accountability and data collection.

The Administration is committed to improving coordination between OCS's fiscal management and VDOE's programmatic technical assistance and oversight, including through providing regular reports and connecting financial inputs with student outcomes utilizing both agencies' data. Given the lack of a strong consensus that a transfer to VDOE would improve

administration or outcomes or reduce costs, the Administration does not recommend a transfer to VDOE at this time.

As part of this collaborative effort, we commit to building the capacity to make improvements to fiscal and programmatic oversight coordination administratively, providing greater transparency around the fiscal and quality measures by program, and leveraging the forthcoming implementation of the new rate setting beginning July 1, 2023 as directed by the General Assembly. This will provide a clearer picture of who is getting served, in what setting, at what cost, and with what outcomes.

Recommendation 2.1: CSA funds should not be used to pay for services delivered to students with disabilities in public school settings, except for transitional services as defined in § 2.2-5211 of the Code of Virginia.

Vote Totals: Yes (13), No (2), Abstain (7), Not present (10)

Regarding Recommendation 2.1, there appeared to be consensus support among members of the work group for the use of CSA funds for transitional services for students with disabilities in public school settings, as defined in § 2.2-5211 of the Code of Virginia. Some members desired CSA funds to be further expanded to support services in public school settings, as discussed in Recommendation 4.1.

The Administration encourages and supports partnership between local school divisions and private day schools to the maximum extent possible to best serve students with disabilities in the least restrictive environment. Services that result in successful transitions to public school settings when that setting is determined to be the least restrictive environment by a student with a disability's Individualized Education Program (IEP) team are critical.

Recommendation 2.2: Create a defined pool of funds within VDOE reserved for students with the highest support needs in public schools to enable those who are at risk of out-of-public-school placements to remain in the least restrictive environment as specified in their IEP. This pool would allow all school divisions to apply for funding to offset high costs of supporting students with intensive support needs.

Vote Total: Yes (14), No (1), Abstain (7), Not present (10)

Regarding Recommendation 2.2, as the Individuals with Disabilities Education Act (IDEA) federal law and state law and regulation states, students with disabilities must be served in the least restrictive environment (8VAC20-81-10) as determined by the student's Individualized Education Program (IEP) team. At this time, there is insufficient information on this recommendation, including the need, scope, use, and cost of a potential new defined pool of funds. Additionally, there has been insufficient exploration of all potential solutions, including solutions pursued in other states.

Recommendation 3.1: Continue data collection and analysis to determine if current transition funding and services parameters are appropriate or need modifications.

Vote Total: Yes (16), No (0), Abstain (6), Not present (10)

Regarding Recommendation 3.1, CSA was first expanded to support transitional services delivered to students with disabilities in public school settings as defined in § 2.2-5211 of the Code of Virginia effective July 1, 2021. The Administration's efforts to provide regular reports connecting inputs with student outcomes utilizing OCS and VDOE data includes transitional services. Like members of the work group, the Administration looks forward to learning more about the utilization of this new flexibility after its second school year of implementation.

Recommendation 4.1: CSA funds should not be used to pay for services delivered to students in public school, except for transitional services as defined in § 2.2-5211 of the Code of Virginia. Services and supports for students with high support needs should be determined by the student's IEP team and be in compliance with § 2.2-5211.

Vote Total: Yes (14), No (1), Abstain (7), Not present (10)

Regarding Recommendation 4.1, the Administration recommends that, should the General Assembly provide additional state funds to support services in public school settings beyond transition services, it should not be accomplished through CSA, as it appears inconsistent with CSA's statutory purpose.

The Administration again expresses its gratitude for the commitment and service of all work group members, presenters, and public commenters. As discussed in the final meeting of the work group on October 14, 2022, we do not view the conclusion of this work group and the submission of the work group's report as the end of our work together. We look forward to continuing to engage all stakeholders and to working with the General Assembly to further improve the oversight and quality of special education services and supports provided to students with disabilities in all educational settings.

Sincerely,



John E. Littel

Secretary of Health and Human Resources



Aimee G. Rogstad Guidera

Secretary of Education

**cc: Senator Monty Mason
Delegate Schuyler VanValkenburg
Anne Oman, Staff Director, House Appropriations Committee
April Kees, Staff Director, Senator Finance Committee**

Children's Services Act Work Group

Final Recommendations

EXECUTIVE SUMMARY

At the direction of the Virginia General Assembly, the Secretaries of Education and Health and Human Resources convened a work group to develop a detailed plan to consider the administration and use of **Children's Services Act (CSA)** funding for private special education day schools and residential facilities. The **Virginia Department of Education (VDOE)** and the **Office of Children's Services (OCS)** co-hosted 12 work group meetings between June 25, 2021 and October 14, 2022 to develop this plan for consideration by the General Assembly. A draft report was prepared in October 2021.

The **Performance Management Group (PMG)** within the VCU L. Douglas Wilder School of Government and Public Affairs facilitated these meetings to support the CSA Work Group members in developing this plan. This plan is a result of the Work Group reviewing relevant special education information as well as engaging with representatives from specialty regional schools, private schools, and public schools.

This final report outlines the Work Group's recommendations on the following topics:

- 1) A plan that may result in the transfer of CSA funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the VDOE;
- 2) The use of CSA funds to pay for services delivered directly to students with disabilities in a public school to enable those who are at risk of out-of-public-school placements to remain in the least restrictive environment;
- 3) The most effective use of CSA funds to transition students from out-of-public-school placements to public school, the transitional services that are appropriate direct services to be covered, the criteria for students to qualify for such funding, the necessity to modify the definition or criteria, and whether CSA funding should be expanded to include ongoing support for students with disabilities following the 12-month transition period; and
- 4) The types of direct services and supports that should be provided to students in the public school setting using CSA funds.

CHILDREN'S SERVICES ACT WORK GROUP

Final Recommendations

Recommendations Summary

Charge	Recommendation	Justification
#1: Potential transfer of CSA funds	1.1: Transfer funds to the VDOE effective July 1, 2024.	Recommended by JLARC
	1.2: Language should direct VDOE to administer funding in a manner that: 1) Funds services for students with highest support needs who are at risk of or in an out-of-public-school placement 2) Ensures that funds are equally accessible to all school divisions 3) Minimizes the fiscal impact of the new funding structure on localities 4) Accounts for how the state and local governments and local educational authorities (LEA) will ensure funding sufficient for services to meet all federal and state requirements under the Individuals with Disabilities Education Act (IDEA).	Required by House Bill 2117 and Senate Bill 1313
	1.3: The amount transferred, that shall be sum sufficient, should be determined by the General Assembly and the Governor, in consultation with the Department of Planning and Budget (with consideration of historical expenditure patterns).	Standard procedure
	1.4: The language should ensure that existing Special Education Wraparound funds for services delivered in the home and community are retained within the CSA.	Special Education Wraparound funds are a distinct category of CSA funds for children with educational disabilities which provide support outside the school setting



CHILDREN'S SERVICES ACT WORK GROUP

Final Recommendations

Charge	Recommendation	Justification
#2: Using CSA Funds in Public Schools	2.1: CSA funds should not be used to pay for services delivered to students with disabilities in public school settings, except for transitional services as defined in § 2.2-5211 of the Code of Virginia.	Eligibility to receive CSA funding is outlined in the Code of Virginia, §§2.2-5211- 2.2-5212. Services to students with disabilities in public school settings is the responsibility of the local educational authority.
	2.2: Create a defined pool of funds within VDOE reserved for students with the highest support needs in public schools to enable those who are at risk of out-of-public-school placements to remain in the least restrictive environment as specified in their IEP. This pool would allow all school divisions to apply for funding to offset high costs of supporting students with intensive support needs.	Provides funding for students in public school without using funds from CSA.
#3: Use of CSA Funds for Transitions to Public School	3.1: Continue data collection and analysis to determine if current transition funding and services parameters are appropriate or need modifications.	Only one year of data exists for transition funding to public school
#4: Types of direct services and supports for students with severe disabilities	4.1: CSA funds should not be used to pay for services delivered to students in public school, except for transitional services as defined in § 2.2-5211 of the Code of Virginia. Services and supports for students with high support needs should be determined by the student's IEP team and be in compliance with § 2.2-5211.	Eligibility to receive CSA funding is outlined in the Code of Virginia, §§2.2-5211- 2.2-5212. The types of direct services and supports provided to students with disabilities should be determined by IEP teams, who are best qualified to make these determinations.

