

AGENDA
State Executive Council for Children's Services
September 8, 2022

Richmond/Henrico Rooms (2nd Floor)
1604 Santa Rosa Road, Richmond VA 23229

Note: This is an in-person meeting
To accommodate interested members of the public, the meeting will be viewable at:

<https://virginia-gov.zoomgov.com/j/1613664973>
or via phone. 1-646-828-7666 922932#
Access Code: SEC090822

- 9:30 Call to Order / Opening Remarks – Honorable John Littel**
Secretary of Health and Human Resources
- 9:40 Member Introductions**
- Action Item:** Approval of Remote Participation per SEC Policy 2.1.3 and §2.2-3708.2, COV (if necessary)
- New Members** Rebecca Vinroot, Chair, State and Local Advisory Team
- 9:50 Action Item:** Approval of June 2022 Minutes
- 9:55 Public Comment**
- 10:05 State and Local Advisory Team Report – Rebecca Vinroot, SLAT Chair**
- 10:15 Report on Family Representatives on FAPT/CPMT – Scott Reiner**
Anna Antell, Senior Program
Consultant, OCS
- Action Item:** Approval of Report on Family Representatives on FAPT/CPMT
- 10:30 OCS Executive Director's Report – Scott Reiner**
- Overview of OCS efforts to monitor local CSA programs, provide necessary technical assistance, and development of corrective action plans per §2.2-2649.19
 - Request for consultation on intended action with regard to audit findings
 - CSA Related Budget Items
 - Status of Workgroup on the Transfer of Private Special Education to DOE
 - Status of Implementation of Rate-Setting for Private Day Special Education
 - CSA Conference Update and Invite
- 11:10 Updates of Relevance to CSA and Services to Children – SEC Members**
- Closing Remarks and Adjourn – Secretary Littel**

Remaining Meetings for 2022
December 8

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**STATE EXECUTIVE COUNCIL (SEC)
FOR CHILDREN'S SERVICES**

**1604 Santa Rosa Road
Richmond/Henrico Rooms
Richmond, VA
Thursday, June 9, 2022**

SEC Members Present:

Leah Mills, Deputy Secretary of Health and Human Resources for The Honorable John Littel,
Secretary of Health and Human Resources (SEC Chair)
Lesley Abashian, Chair, State and Local Advisory Team (SLAT)
Danny Avula, M.D., Commissioner, Virginia Department of Social Services
Sophia Booker, Service Recipient Representative
The Honorable Carrie Coyner, Member, Virginia House of Delegates
The Honorable Margaret Angela Franklin, Member, Prince William County Board of
Supervisors (*virtually*)
The Honorable Willie Greene, Mayor, City of Galax
Samantha Hollins, Ed.D. for Jillian Balow, Superintendent of Public Instruction, Virginia Department
of Education
Parham Jaber, M.D., for Colin Greene, M.D., Commissioner, Virginia Department of Health
Sandra Karison for Karl Hade, Executive Secretary of the Supreme Court of Virginia
The Honorable T. Montgomery "Monty" Mason, Member, Senate of Virginia
Andelicia Neville, Parent Representative
The Honorable Dalia Palchik, Member, Fairfax County Board of Supervisors (*virtually*)
Cheryl Roberts, Acting Director, Department of Medical Assistance Services
Mira Signer, Chief Deputy Commissioner for Nelson Smith, Commissioner, Virginia Department of
Behavioral Health and Developmental Services
The Honorable Frank Somerville, Presiding Judge, 16th Judicial District, Juvenile and Domestic
Relations District Court
Ron Spears, CEO, Elk Hill

SEC Members Absent:

Amy Floriano, Director, Department of Juvenile Justice
Michelle Johnson, County Administrator, Charles City County
Amanda Stanley, President and CEO, DePaul Community Resources
Jessica Stern, Parent Representative

Other Staff Present:

Mary Bell, Program Consultant, OCS
Marsha Mucha, Administrative Staff Assistant, OCS
Scott Reiner, Executive Director, OCS
Courtney Sexton, Program Consultant, OCS
Susan Whyte, Assistant Attorney General

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Call to Order/Opening Remarks

Leah Mills, Deputy Secretary of Health and Human Resources called the meeting to order at 9:35 a.m. She welcomed everyone on behalf of Secretary Littel who was not able to attend today's meeting. A motion was made by Monty Mason, seconded by Parham Jaber and carried to approve requests made by Supervisor Palchik (medical) and Supervisor Franklin (travel issue) pursuant to §2.2-3708.2 and SEC Policy 2.1.3 to participate virtually from their home and office, respectively.

The Honorable Carrier Coyner was introduced as a new legislative member to the SEC representing the Virginia House of Delegates. Certificates of appreciation were presented to Sophia Booker, Judge Somerville, Jessica Stern, Amanda Stanley, Andelicia Neville, and Lesley Abashian who will be leaving the SEC.

Approval of Minutes

The minutes of the March 10, 2022 meeting were approved on a motion by Sandra Karison seconded by Lesley Abashian, and carried.

Public Comment

There were no public comments.

Governor's Safe and Sound Task Force

By unanimous consent, in consideration of Ms. Kelly's schedule, the SEC agreed to move her presentation up on the agenda. Janet Kelly, Special Advisor to the Governor provided an update on the activities of the task force. Ms. Kelly reported that Governor Youngkin established the task force to address the issue of children in foster care with complex needs and no satisfactory placement. These children are often being housed temporarily in hospital emergency rooms, hotels and at local DSS offices because placements are not available.

Since the first of April, small teams comprised of staff from child serving agencies have been meeting to address the situations specific to each child in this cohort and to collaboratively brainstorm and identify a placement for each child. These teams have reached out to private providers, community partners, and other stakeholders for assistance to meet these needs. The task force is also receiving updates on children that may be at risk of not having a placement in the near future. While this small team intensive approach has worked in the short term for children already in this situation, systemic changes are needed going forward.

Ms. Kelly further reported that next steps include development of a sustainable process to meet complex placement needs and a plan/vision to address child welfare in Virginia. At the end of her presentation, Ms. Kelly answered questions from SEC members.

State and Local Advisory Team (SLAT) Report

Lesley Abashian, SLAT Chair, provided the update. She noted that her term as SLAT Chair would be ending June 30. She noted some of the work products and guidance documents SLAT developed as part of the SEC's Strategic Plan. She encouraged the SEC to continue to utilize SLAT and its expertise in the future for projects and initiatives.

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Mrs. Abashian presented a roster of the SLAT membership for the SEC's approval. She noted that Rebecca Vinroot, the local DSS representative to SLAT from James City County has been elected as SLAT Chair for the year beginning July 1. Mills Jones, the Goochland County CSA Coordinator will serve as Vice-Chair. The SLAT membership roster was approved on a motion by Carrie Coyner, seconded by Frank Somerville and carried.

OCS Executive Director's Report

Mr. Reiner reported on the following items:

- *FY2023 OCS Training Plan* – Mr. Reiner presented a draft of the OCS Training Plan for FY2023 for the SEC's consideration and approval. Mr. Reiner highlighted several aspects of the training plan. Members also received a copy of the December 2021 Report to the General Assembly on *Regional and Statewide Training Regarding CSA* and a copy of the FY2022 Training Progress Report. At the end of his presentation, the training plan was approved on a motion by Lesley Abashian, seconded by Andelicia Neville and carried.
- *Budget Items* – Includes a \$50,000 increase in training funds and \$500,000 in additional funding to support local programs.
- *Status of Implementation of Rate-Setting for Private Day Special Education* - Two rate setting studies have taken place with the last report being made in November 2021. Mr. Reiner provided members with a copy of a proposed rate structure for private day special education. The legislature has (pending the Governor's approval of the budget) delayed the implementation of rate-setting from July 1, 2022 to July 1, 2023. During this time, OCS is directed to provide training and conduct a fiscal impact study of the new tiered rate structure.
- *Status of Workgroup on the Transfer of Private Special Education to DOE* – The Workgroup continues to meet to plan for the transfer of private special education funding from CSA to DOE. A preliminary report was filed in November 2021, with a final report due in November 2022.
- *CSA Annual Conference* – The Conference will be held at the Hotel Roanoke and Conference Center, November 1-2, 2022. All SEC members are invited and encouraged to attend.

Member Updates of Relevance to CSA and Services to Children

Members reported on recently held and upcoming conferences and trainings. Members also reported on projects, their agencies/organizations efforts to address workforce and mental health needs, IT projects to enhance data sharing/reporting and outcome measures and improvements to services and service delivery for the children, youth and families of Virginia.

Closing Remarks and Adjournment

In closing, Deputy Secretary Mills thanked everyone for attending today's meeting. The next meeting is scheduled for September 8, 2022.

There being no further business the meeting adjourned at 12:05 p.m.

§ 2.2-2649. Office of Children's Services established; powers and duties

A. The Office of Children's Services is hereby established to serve as the administrative entity of the Council and to ensure that the decisions of the council are implemented. The director shall be hired by and subject to the direction and supervision of the Council pursuant to § 2.2-2648.

B. The director of the Office of Children's Services shall:

19. Provide for the effective implementation of the Children's Services Act (§ 2.2-5200 et seq.) in all localities by (i) regularly monitoring local performance measures and child and family outcomes; (ii) using audit, performance, and outcomes data to identify local programs that need technical assistance; and (iii) working with local programs that are consistently underperforming to develop a corrective action plan for submission to the Office and the Council.

4.7 RESPONSE TO AUDIT FINDINGS WITH REGARD TO THE CHILDREN'S SERVICES ACT

4.7.1 PURPOSE

To provide guidance to the Office of Children's Services (OCS) and improve consistency and transparency for localities when the OCS Executive Director is carrying out his or her duties under the State Executive Council for Children's Services (SEC) Policy 4.6 (Denial of Funds) in responding to OCS audit noncompliance findings by local Children's Services Act (CSA) programs.

4.7.2 AUTHORITY

Section 2.2-2648 of the *Code of Virginia* authorizes the SEC, paraphrased in relevant part, to do the following:

- (i) Establish interagency programmatic and fiscal policies which support the purposes of CSA (subdivision D (3))
- (ii) Provide for dispute resolution procedures for administrative actions that support the purposes of the CSA (subdivision D (4));
- (iii) Provide for the administration of necessary functions that support the work of the OCS (subdivision D (6));
- (iv) Establish and oversee the operation of an informal review and negotiation process with the OCS Executive Director and a formal dispute resolution procedure before the SEC, to include formal notice and an appeals process, should the Executive Director or SEC find, upon a formal written finding, that a community policy and management team (CPMT) failed to comply with any provision of CSA (subdivision D (19)); and
- (v) Deny state funding to a locality, in accordance with (iv) in this section, where the CPMT fails to provide services that comply with CSA and other applicable statutes or policies (subdivision D (20)).

Section 2.2-2649 of the *Code of Virginia* authorizes the OCS to:

- (i) Develop and provide for the consistent oversight for program administration and compliance with state policies and procedures (subdivision B (3));
- (ii) Provide an informal review and negotiation process pursuant to § 2.2-2648 D (19); and
- (iii) Implement, in collaboration with participating state agencies, policies, guidelines and procedures adopted by the State Executive Council (subdivision B (7)).

4.7.3 DEFINITIONS

"Audit" means a review by OCS employees of a local CSA program's policies, procedures, and practices through interview, observation, and the review of documentation to determine compliance, in whole or in part, with the requirements of a state or federal laws and regulations, including the applicable Appropriation Act provisions, or policies promulgated by the SEC or the participating agencies of the CSA, that govern or direct the operations of local CSA programs.

"Audit cycle" means the three-year period in which OCS conducts routinely scheduled audits of all localities in the Commonwealth.

"Case specific finding" means a noncompliance finding emerging from an expenditure of CSA state pool funds for an individual child and/or family.

"Noncompliance finding" means a finding made by the Executive Director of the Office of Children's Services that a CPMT, in its implementation of the CSA program, has not complied with the provisions of the Children's Services Act (§§ 2.2-5200 et seq.), the policies of the State Executive Council, any state or federal law pertaining to the provision of services pursuant to the CSA, the applicable provisions of the Appropriation Act, or any policies promulgated by the participating state agencies (as identified in § 2.2-2648(B)) pertaining to the services funded pursuant to the CSA. There are three levels of noncompliance findings as outlined herein. A finding of non-compliance shall provide the basis for the "formal written finding as described in § 2.2-2648 (D) (19)."

"Participating agencies" means any of the child-serving agencies required by § 2.2-5205 to serve on the Community Policy and Management Team and to implement the CSA in a locality.

"Repeat or subsequent violation" means a locality, in two successive audit cycles, violates the same policy, regulatory, or statutory requirement (e.g., failure to complete the CANS assessment). Repeat or subsequent findings will typically occur on the next regularly scheduled audit.

4.7.4 NONCOMPLIANCE LEVEL FINDINGS

The subsection delineates three levels of noncompliance findings as defined above. The parameters and examples provided in each level are not exhaustive but illustrative and shall guide OCS in determining into which level any noncompliance finding is categorized based on the noncompliance finding's similarity to the general parameters and specific examples provided below.

4.7.4.1 Level Three Noncompliance Finding

- A. *General Parameters:* Audit findings in this category are case specific and occur when CSA state pool funds have been reimbursed when the expenditure is not authorized by statute, regulation, or policy.
- B. *Examples of Level Three Specific Noncompliance Findings:*
1. The child and/or family are ineligible for CSA funding per §§ 2.2-5211 and 2.2-5212 of the *Code of Virginia* or documentation of eligibility (e.g., an Individualized Education Program [IEP] or a Child in Need of Services [CHINS] eligibility determination) was not available for review during the audit.
 2. Use of CSA funding for services for which another appropriate federal or state funding source was available.
 3. Services were not recommended by a Family Assessment or Planning Team (FAPT) or Multidisciplinary Team (MDT) in accordance with § 2.2-5208 (8) and/or an Individual and Family Service Plan (IFSP) was not developed, except where a local CPMT policy allows such expenditures to be exempt from FAPT or IFSP requirements (e.g., "maintenance only" foster care or IEP-mandated placements) in accordance with § 2.2-5208 (4).
 4. The funding of services was not authorized by the CPMT as required by § 2.2-5206 (9).
 5. Violations of statutes, regulations, or policies of the participating agencies in the provision of services, such as:
 - a. Payment for Enhanced Foster Care Maintenance when the Virginia Department of Social Services' (VDSS) Virginia Enhanced Maintenance Assessment Tool (VEMAT) policy was not followed;
 - b. Title IV-E funding was denied due to error; or
 - c. The local DSS used an unapproved/unlicensed foster home placement.
 6. Services were within the scope of responsibility of another agency as specified in the statutes, regulations, policies, and/or guidance of a participating agency (e.g., services to students with disabilities provided in the public school setting; administrative costs of a local DSS such as paternity testing, routine drug screening of biological parents where the VDSS has allocated funds for that purpose, or legal services related to prosecuting child abuse and neglect; case management by a local DSS for youth committed to the Department of Juvenile Justice (DJJ));
 7. The service provider did not meet licensing requirements for the specific service (e.g., behavioral health providers or other providers [LCPA, day care] requiring licensure by VDSS).

8. The use of a non-Medicaid provider, when the child and/or family were Medicaid eligible, and there is no substantiation that a Medicaid provider was unavailable or inappropriate in accordance with Item 285, section D. of the Appropriation Act.
9. Failure to refund to CSA recoveries made against previously claimed costs (e.g., child support collections, Title IV-E recoveries, SSI, or retroactive Medicaid payments for services).
10. Failure to correct erroneous expenditure reports that require adjustments to CSA match rate categories.
11. Claiming reimbursement for expenditures after September 30 which were incurred in the previous fiscal year in violation of SEC Policy 4.5.2.

4.7.4.2 Level Two Noncompliance Finding

- A. *General Parameters:* Findings in this category are case specific and involve a violation of an applicable statute, regulation, or policy but, had the requirements been followed, would have been eligible for reimbursement through state pool funds. Findings may be mitigated by corrective action already implemented on a case-specific basis (e.g., FAPT or CPMT action was not timely made but was taken in a reasonable time thereafter).
- B. *Examples of Specific Level Two Noncompliance Findings:*
 1. Assessments with the mandatory uniform assessment instrument (i.e., CANS) are not completed in accordance with § 2.2-2648 (11), 2.2-5212 (A), and SEC Policy 3.6.
 2. The CPMT did not have the child-specific documentation required under SEC Policy 3.5 (Records Management) or to demonstrate eligibility for CSA funded services per § 2.2-5212 and/or SEC Policy 4.1.
 3. There was missing, incomplete, or inaccurate financial documentation (e.g., purchase orders, invoices, or vendor contracts) but enough documentation to determine that the service was eligible for state pool fund reimbursement per SEC Policy 3.5 and Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).

4.7.4.3 Level One Noncompliance Finding

- A. *General Parameters:* Audit findings in this category are *not* case specific but represent failure to meet administrative and operational standards required statutory, regulatory, or policy requirements.
- B. *Examples of Specific Level One Noncompliance Findings:*
 1. The CPMT's policies and/or practices do not comply with § 2.2-5206 and Item 285 of the Appropriation Act.

2. The CPMT does not have documentation of long-range community planning and utilization management activities per § 2.2-5206 (4).
3. CMPT and FAPT membership does not meet statutory requirements per §2.2-5205 and § 2.2-5207.
4. Statements of Economic Interest for designated CPMT and FAPT members are not completed in compliance with § 2.2-5205 and § 2.2-5207.
5. The CPMT's fiscal controls (e.g., separation of purchasing and payment authority) do not meet the Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).
6. CSA-related information technology security controls (e.g., users sharing accounts or passwords) do not meet Information Technology policy SEC-501 promulgated by the Virginia Information Technology Agency (VITA).
7. The locality failed to properly reconcile CSA reimbursement requests with other fiscal systems per Audit Standards promulgated by Virginia Department of Accounts Agency Risk Management and Internal Control Standards (ARMICS).

4.7.5 REVIEW OF FINDINGS BY OCS

The OCS Executive Director shall review (i) the audit report; (ii) any response, including corrective actions and quality improvement plans from the locality, (iii) the recommendation of the auditor(s); and (iv) any OCS internal staff review prior to responding to the noncompliance finding. After such review, the OCS Executive Director shall issue a written response describing the findings made and action to be taken.

4.7.6 RESPONSES TO NONCOMPLIANCE FINDINGS

4.7.6.1 Response to Level Three Noncompliance Findings

The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the noncompliant state pool fund reimbursements upon the first and any repeat or subsequent Level Three Noncompliance Finding.

4.7.6.2 Response to Level Two Noncompliance Findings

- A. *First Level Two Noncompliance Finding:* The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Level Two Noncompliance Finding.
- B. *Repeat Level Two Noncompliance Finding:* The OCS Executive Director shall (i) require a corrective action plan and (ii) recover the state pool funds on any repeat or subsequent Level Two Noncompliance Finding as follows:

1. On repeat or subsequent findings of noncompliance, state pool funds will be recovered in proportion to the percentage of the audit sample found to be noncompliant (i.e., if 20% of the number of cases in the audit sample are found non-compliant, recovery will be 20% of the total amount found in violation for that issue), with a minimum recovery of 10% of the amount of funds found as noncompliant.
2. On a third repeat finding of noncompliance, state pool funds will be recovered at 100% of the amount found in noncompliance.

4.7.6.3 Response to Level One Noncompliance Findings

- A. *First Level One Noncompliance Finding:* The OCS Executive Director shall require the locality to submit a corrective action plan on the first instance of Level One Noncompliance Finding.
- B. *Repeat or subsequent Level One Noncompliance Finding:* The OCS Executive Director shall temporarily deny state pool fund reimbursements on any repeat or subsequent instance of a Level One Noncompliance finding until a corrective action plan is submitted and implemented. (For noncompliance findings related to required membership on FAPT or CPMT, documentation of reasonable and ongoing efforts to meet the requirements will be considered as implementation of corrective action.)
- C. *Corrective Action Plan Compliance:* Once a local CSA program is substantially in compliance with all applicable requirements of a Level One Noncompliance Finding resulting in suspension of state pool fund reimbursements, all funds will be retroactively released and new requests for reimbursement will be approved.

4.7.7 APPEAL OF OCS RESPONSE

The CPMT may appeal the findings and action taken by the Executive Director of OCS in accordance with SEC Policy 3.4 (Dispute Resolution Process).

4.7.8 ANNUAL REPORT TO THE STATE EXECUTIVE COUNCIL

The OCS Executive Director shall annually report to the SEC a summary of the year's audits, audit findings, and any remedial actions taken.

4.7.9 POLICY REVIEW

This policy will be subject to annual review by the SEC Finance and Audit Committee to determine whether there are necessary modifications that should be recommended to the findings in each Noncompliance Finding Level.

Summary of CSA-Related Budget Items

2022 General Assembly

Chapter 2 (Appropriation Act)

Summary for the SEC – September 8, 2022

1. Increased amount of state funds available to support local CSA administration by \$500,000 (from \$2,060,000 to \$2,560,000 (24.3%). All localities received a 24.3% increase. The range is now \$13,405 - \$53,623.
2. Increased CSA training funds from \$50,000 to \$100,000.
3. Provided funding from dual-factor authentication (DFA) for non-COV users of sensitive CSA data systems. This is an important IT security feature.
4. Provided one new FTE and funding for an additional computer (IT) programmer.
5. CSA state pool was level-funded from the previous FY and carry-forward funds from FY22 were allocated in the event of service cost increases in FY23.

VIRGINIA STATE BUDGET

2022 Special Session I

Budget Bill - HB30 (Chapter 2)

Bill Order » Office of Health and Human Resources » Item 285

Children's Services Act

Item 285	First Year - FY2023	Second Year - FY2024
Administrative and Support Services (49900)	\$2,739,989	\$2,700,324
General Management and Direction (49901)	\$2,739,989	\$2,700,324
Fund Sources:		
General	\$2,739,989	\$2,700,324

Authority: Title 2.2, Chapter 26, Code of Virginia.

A. The Office of Children's Services may enter into a memorandum of understanding with the Department of Social Services for the provision of routine administrative support services.

B. Out of this appropriation, \$100,000 the first year and \$100,000 the second year from the general fund is provided to the Office of Children's Services for a contract to assist in implementing rate setting for private day special education rates. The Office of Children's Services shall use the first year funding to develop a fiscal impact estimate of the rate changes on expenditures for private day special education services. The Office of Children's Services shall implement statewide rates for private day special education services effective July 1, 2023.

C. The Office of Children's Services shall collect annually from each local Children's Services Act program the number of program staff by full- and part-time status and the administrative budget broken out by state and local funding to understand local program resources and target technical assistance to the most under-sourced local programs.

Proposed Rates for Private Day Special Education under the CSA

Model	Teacher to Student Ratio	Support Staff to Student Ratio	Base Rate	Northern Virginia (NOVA) Rate
1	1:03	1:01	\$522.49	\$623.17
2	1:03	1:2 – 1:3	\$354.86	\$420.10
3	1:03	1:4+	\$312.94	\$369.33
4	1:4 – 1:7	1:01	\$466.00	\$554.67
5	1:4 – 1:7	1:2 – 1:3	\$298.35	\$351.59
6	1:4 – 1:7	1:4+	\$256.46	\$300.84
7	1:8+	1:01	\$434.21	\$516.12
8	1:8+	1:2 – 1:3	\$266.58	\$313.07
9	1:8+	1:4+	\$224.67	\$262.29

*North Virginia (NOVA) geographic add-on (23% increase based on staff costs) was calculated for schools in the counties of Fairfax, Arlington, Prince William, and Loudon and the cities of Alexandria, Fairfax, Falls Church, Manassas, and Manassas Park