

Report to the Governor and the General Assembly of Virginia

# Review of the Children's Services Act and Private Special Education Day School Costs

2020



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# Contents

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|  |     |
|--|-----|
| <b>Summary</b>   | i   |
| <b>Recommendations</b>   | vii |
| <b>Chapters</b>  |     |
| 1. The Children’s Services Act   | 1   |
| 2. Spending on Private Special Education Day Schools                             | 13  |
| 3. Alternative Approaches to Using CSA Funds for K–12 Students with Disabilities | 25  |
| 4. Performance and Operational Standards for Private Day Schools                 | 37  |
| 5. Local CSA Program Effectiveness   | 45  |
| 6. Role and Responsibilities of the Office of Children’s Services                | 59  |
| <b>Appendixes</b>  |     |
| A. Study resolution  | 71  |
| B. Research activities and methods   | 73  |
| C. Impact of the COVID-19 pandemic on private day schools                        | 84  |
| D. Children’s Services Act service definitions                                   | 86  |
| E. Private day school finance questionnaire                                      | 88  |
| F. Local match rates for services  | 95  |
| G. Agency responses  | 96  |



# Summary: Review of the Children’s Services Act and Private Special Education Day School Costs

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## WHAT WE FOUND

### Spending on private special education day school services has driven overall CSA spending growth

CSA spending for private special education day school services (“private day school”) has more than doubled since FY10, growing by approximately 14 percent per year from \$81 million to \$186 million. In 2019, private day school spending accounted for 44 percent of all CSA spending. If spending trends continue, within the next several years the majority of the CSA program’s expenditures will be for private day school services.

Children placed in private day schools typically have an emotional disturbance, autism, or some other childhood mental disorder, and exhibit behaviors that public schools have difficulty managing.

Half of the growth in private day school spending is explained by increasing enrollment in these schools.

Enrollment has grown 50 percent over the past 10 years because of three factors: more new children placed in private day school each year, children being placed in private day school at younger ages, and children spending more time in private day school.

Increasing tuition rates charged by private day schools and greater use of additional services offered by private day schools also contributed to spending increases. Tuition rates increased by 25 percent between FY10 and FY19, or an average of 3 percent annually, similar to inflation growth during that time. Annual tuition rates for private day schools are costly (\$22,000 to \$97,000 per child), and the lack of insight into tuition rates has raised questions about their reasonableness and the schools’ profits.

However, private day schools appear to charge tuition rates that are consistent with the cost of providing low student-to-staff ratios in small environments, and a majority of schools do not earn excessive profits. On average, private day schools earned a 6 percent net profit in 2019.

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## WHY WE DID THIS STUDY

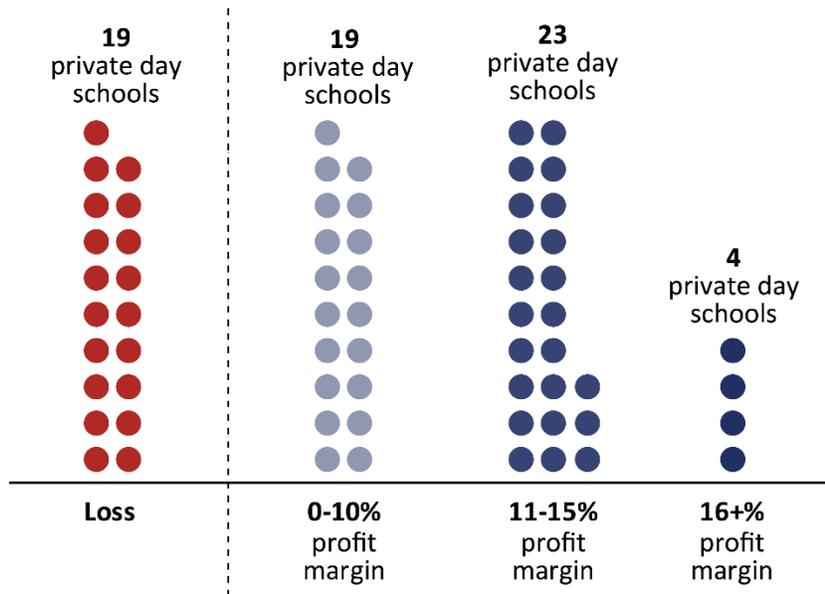
In 2019, the Joint Legislative Audit and Review Commission (JLARC) asked staff to conduct a review of the Children’s Services Act (CSA) program. The study resolution required staff to examine drivers of spending growth in the CSA program, the cost effectiveness of services, especially private special education day school, and state and local oversight and administration of CSA.

## ABOUT CSA

The CSA program was created in 1992 to more efficiently and effectively serve Virginia children who require services from multiple different programs. Services include community-based behavioral health services (e.g. outpatient counseling) for children in foster care or at risk of foster care placement and services delivered to students with disabilities who are placed in private special education day schools instead of public school. In FY19, 15,656 children received services funded by CSA, the majority of whom were in foster care or private special education day school placements.

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**Majority of private day schools responding to JLARC questionnaire generated profit levels of 10 percent or less**



SOURCE: JLARC analysis of responses to private day school finance and tuition questionnaire.

NOTE: Sixty-eight (68) private day schools responded to the finance and tuition questionnaire, but only 65 provided enough information to calculate profit margins.

**Restricting use of CSA funds to private day school services could prevent children from receiving comparable services in a less restrictive setting**

State law and policy do not permit CSA funds to be spent on public school services. School divisions therefore cannot access these funds to provide services that could keep children in public school or transition them back to public school from a more restrictive placement in a private day school. School divisions do have federal, state, and local funding to pay for services delivered within the public schools, but state and federal funding has declined. At the same time, the number of students receiving special education services and the severity of their needs have been increasing.

Prohibiting CSA money from being spent on services that could help keep students in their public school means that students must be placed outside of their school, in a private day school, in order to access more intensive services. Private day schools are considered one of the more restrictive placements because they are separate from public schools, and students have little to no access to their non-disabled peers. Virginia places a higher percentage of students with disabilities in more restrictive out-of-school settings than 37 other states, and Virginia’s out-of-school placement rate has increased over the past 10 years.

Some intensive services delivered in private day schools (such as one-on-one aides) could be delivered in the public school just as they are in a private school. Without the restriction on where services have to be delivered in order for CSA funds to be used, more students could receive needed intensive services within their public schools instead of being placed in a private day school.

### **VDOE would be a more logical administrator of private special education day school funding**

The CSA program currently pays for private day school placements but cannot affect placement decisions or students’ service plans. Consistent with federal law, school district IEP teams make private day school placement decisions, and local CSA programs have no control over these decisions even though they pay for the services. Because the Virginia Department of Education is responsible for administering funding and programs for special education services in Virginia’s school divisions, and already licenses private day schools, VDOE would be a more logical and potentially effective administrator of this portion of CSA funding.

### **Private day school performance expectations should be comparable to those for public schools**

Stakeholders and parents of private day school students do not have information on the same basic metrics for private day schools that are reported for every public school in the Commonwealth. Unlike public schools, data has not been consistently published on outcomes for students who attend Virginia’s private day schools. While the private day school accreditation process reviews several aspects of private day schools’ educational quality and school operations, it primarily relies on observations and subjective assessments to make determinations about school quality.

State regulations on the use of restraint and seclusion in private day schools are more permissive than restraint and seclusion regulations in public school. In most cases, students who are placed in private day schools have behaviors that are too severe or challenging for public schools to manage effectively. Students with these behaviors are more likely to be subject to restraint and seclusion behavior management techniques. Despite the need to use these techniques in private day schools, the regulations governing them do not require as much documentation of restraint and seclusion incidents, or as much planning to prevent future incidents.

### **CSA services benefit majority of children, but the multidisciplinary service planning process can delay the start of services**

Case managers reported that a majority of CSA children on their caseloads have shown improvement in the past year and that CSA’s multi-disciplinary service planning approach adds value beyond what they can contribute on their own. An analysis of changes in children’s scores on the program’s standardized assessment instrument supports case managers’ experience. On average, children who receive community-

based services funded by CSA, such as outpatient counseling or therapeutic mentoring, show improvements in behavior, school attendance, and emotional issues over time. In particular, children in CSA’s community-based services improved most related to potentially dangerous behaviors like self-harm, running away, and bullying. Notably, children in residential services (11 percent of the CSA population) generally did not show improvement over time, and their behaviors tended to worsen.

While CSA’s services and multidisciplinary approach appear to benefit children, many children experience delays in receiving services. The state requires CSA programs to hold Family Assessment and Planning Team (FAPT) meetings to develop children’s service plans, which must then be approved by a separate group—the Community Policy and Management Team. Localities hold these team meetings with various frequencies. In an estimated one-fifth of local CSA programs, children referred to CSA could wait one month or more to begin services after they are referred to the program.

### **More children could be served through CSA**

CSA requires the state and local CSA programs to serve children in or at risk of being placed in foster care and children with disabilities who require placements in private day schools. The CSA program must cover these “mandated” children at a “sum-sufficient” level, meaning the program must pay for the entire cost of services.

The state also provides funding that local CSA programs can use to pay for services for children with less severe emotional and behavioral issues, but nearly half of Virginia’s localities choose not to. These children are not eligible for sum-sufficient funding from the state, per the criteria set out in the Code of Virginia, and are referred to as “non-mandated” children.

Not serving non-mandated children may exacerbate two problems that the CSA program was designed to address—delayed intervention in at-risk children’s circumstances and geographical disparities in service availability. About 18 percent of Virginia’s children live in localities that do not serve non-mandated youth.

Serving non-mandated children could be an effective preventative strategy, and the General Assembly could consider requiring local programs to use available funding to pay for services for these children, resulting in more than 300 additional children receiving CSA-funded supports. This would also increase state and local CSA costs, but services for these children cost less, on average, than services for children in the “mandated” eligibility category.

### **CSA program could benefit from more well-defined OCS responsibilities and active OCS role**

The CSA program’s locally administered structure allows for necessary flexibility, but some local programs are not operating as intended. CSA is designed to encourage local programs to use a “systems of care” approach to service planning, but some local

governments view CSA simply as a state funding source for children’s services. The reluctance of some localities to embrace this philosophy was cited as a concern by numerous stakeholders.

Effective OCS supervision of local programs could help improve local CSA programs’ effectiveness, but the Code of Virginia does not give OCS sufficient responsibility for ensuring that local programs operate effectively. Neither OCS nor any other state entity has clear authority to intervene when a local CSA program is *ineffective*, only when it is not in *compliance*.

## **WHAT WE RECOMMEND**

### **Legislative action**

- Allow funds reserved for private special education day school services to be used to pay for special education services and supports delivered in the public school setting, either to prevent children from being placed in more restrictive settings like private day school, or to transition them back to public school from more restrictive settings.
- Transfer funding for private special education day school services from the CSA program to VDOE.
- Direct VDOE to annually collect and publish performance data on private day schools that is similar to or the same as data collected and published for public schools.
- Direct the Board of Education to develop and promulgate new regulations for private day schools on restraint and seclusion that mirror those for public schools.
- Require all local CSA programs to serve all children identified as eligible for CSA funds, including those categorized as “non-mandated.”
- Direct OCS to more actively monitor and work with local CSA programs that need technical assistance or are underperforming.

### **Executive action**

- Require local programs to measure, collect, and report data on timeliness in service provision and target assistance to those programs that struggle the most with it.

The complete list of recommendations and policy options is available on page vii.



# **Recommendations: Review of the Children’s Services Act and Private Special Education Day School Costs**

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## **RECOMMENDATION 1**

The General Assembly may wish to consider amending §2.2-5200 of the Code of Virginia to make the annual reporting of tuition rates charged by private special education day schools a condition for private special education day schools to receive state funds and require the Office of Children’s Services (or Virginia Department of Education if funding responsibility is transferred) to publish the private day school tuition rates annually by July 1. (Chapter 2)

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## **RECOMMENDATION 2**

The General Assembly may wish to consider amending §2.2-5200 of the Code of Virginia to direct the Office of Children’s Services (or Virginia Department of Education if funding responsibility is transferred) to develop a standardized reporting process and template for private special education day school tuition rates to ensure that tuition rates can be accurately compared across schools and over time. (Chapter 2)

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## **RECOMMENDATION 3**

The General Assembly may wish to consider amending §2.2-5211 and §2.2-5212 of the Code of Virginia to allow state funds currently reserved for children requiring placement in a private special education day school to pay for services delivered in public schools to help transition students from residential or private day school placements back to a public school setting. (Chapter 3)

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## **RECOMMENDATION 4**

The General Assembly may wish to consider amending §2.2-5211 and §2.2-5212 of the Code of Virginia to allow the use of state funds currently reserved for children requiring placement in a private special education day school for services delivered to students with disabilities in public schools if the public school’s individualized education program (IEP) team has determined that the services may prevent a more restrictive placement. (Chapter 3)

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**RECOMMENDATION 5**

The General Assembly may wish to consider including language in the Appropriation Act, and amending the Code of Virginia as appropriate, to direct the transfer of funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Virginia Department of Education (VDOE) effective July 1, 2022. The language should also direct the VDOE to develop a detailed plan to administer this funding that (i) funds services for students with the most severe disabilities who are at-risk of or in an out-of-school placement; (ii) ensures that funds are equally accessible to all school divisions; and (iii) minimizes the fiscal impact of the new funding policy on localities. VDOE could be required to submit its plan and recommendations to the House Appropriations and Senate Finance and Appropriations committees for approval by November 1, 2021. (Chapter 3)

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**RECOMMENDATION 6**

The General Assembly may wish to consider amending §22.1-217 of the Code of Virginia to require the Virginia Department of Education (VDOE) to direct that individualized education program (IEP) teams (i) identify any children with disabilities who may need additional services outside of the school setting and (ii) refer them to the local family assessment and planning team. (Chapter 3)

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**RECOMMENDATION 7**

The General Assembly may wish to consider amending §2.2-5211 of the Code of Virginia to prohibit the use of state funds for any private day school tuition payments to schools that are not licensed by the Virginia Department of Education (VDOE), or in the case of out-of-state schools, the respective state’s licensing agency. (Chapter 4)

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**RECOMMENDATION 8**

The General Assembly may wish to consider including language in the Appropriation Act directing VDOE to collect and publish the following data on each private day school annually: (i) number of teachers not fully endorsed in content they are teaching (“out-of-field”); (ii) number of teachers with less than one year of classroom experience; (iii) number of provisionally licensed teachers; (iv) educational attainment of each teacher; (v) number of career and technical education (CTE) credentials earned by students; (vi) accreditation status; and (vii) number of incidences of restraint and seclusion. (Chapter 4)

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**RECOMMENDATION 9**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Board of Education to develop and promulgate new regulations for private day schools on restraint and seclusion that establish the same requirements for restraint and seclusion as those established for public schools. (Chapter 4)

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**RECOMMENDATION 10**

The Office of Children’s Services (OCS) should require local Children’s Services Act (CSA) programs to measure, collect, and report timeliness data to OCS at least annually, and OCS should use this data to identify local CSA programs with relatively long start times for services, provide assistance to these programs, and notify Community Policy and Management Teams of their low performance relative to other CSA programs. (Chapter 5)

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**RECOMMENDATION 11**

The General Assembly may wish to consider amending the Code of Virginia to (i) require all local CSA programs to serve children who meet criteria established by the Office of Children’s Services and the State Executive Council for the “non-mandated” eligibility category, (ii) require that services for these children be paid for with both state CSA funds set aside each year by the State Executive Council from the CSA pool of funds and local government matching funds, and (iii) maintain the provision that makes these funds non-sum sufficient. (Chapter 5)

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**RECOMMENDATION 12**

The General Assembly may wish to consider including language in the Appropriation Act directing the State Executive Council (SEC) to form a committee composed of selected SEC members, State and Local Advisory Team members, and Office of Children’s Services staff to assess the feasibility and efficacy of initiating an SEC-administered competitive grant fund to fill gaps in children’s services and report its findings by January 1, 2022 to the chairs of the House Appropriations and Senate Finance and Appropriations committees. (Chapter 5)

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**RECOMMENDATION 13**

The General Assembly may wish to consider amending §2.2-2649.B.1 of the Code of Virginia to direct the Office of Children’s Services (OCS) to provide for the effective implementation of the Children’s Services Act program 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 that will be submitted to OCS and the State Executive Council. (Chapter 6)

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**RECOMMENDATION 14**

The Office of Children’s Services should 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-resourced local programs. (Chapter 6)

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**RECOMMENDATION 15**

The General Assembly may wish to consider including language in the Appropriation Act directing the Office of Children's Services to develop and submit a plan to modify its staffing and operations to ensure effective local implementation of the Children's Services Act. The plan should include any new or different staff positions required, how those positions will be used to monitor and improve effectiveness, and the estimated cost of implementing these changes. The plan should be submitted to the chairs of the House Appropriations and Senate Finance and Appropriations committees no later than November 1, 2021, in advance of the 2022 General Assembly session. (Chapter 6)

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**RECOMMENDATION 16**

The Office of Children's Services should modify its Continuous Quality Improvement tool to allow local Children's Services Act programs to review metrics on a service and provider level, including changes in Child and Adolescent Needs and Strengths (CANS) scores, length-of-stay in services, and spending per child. (Chapter 6)

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**RECOMMENDATION 17**

The Office of Children's Services should work with Children's Services Act (CSA) programs to design and administer a statewide survey of parents/guardians of youth who are receiving CSA services to obtain their assessment of how well the program and CSA-funded services have addressed their child's emotional and behavioral challenges. (Chapter 6)

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**RECOMMENDATION 18**

The Office of Children's Services should work with (i) the Department of General Services to determine the benefits and feasibility of a statewide contract for children's services and the types of children's services and service providers that would be included and (ii) the Office of the Attorney General to develop contracts to be made available to all local Children's Services Act programs where beneficial and feasible. (Chapter 6)

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# 1 The Children's Services Act

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In 2019, the Joint Legislative Audit and Review Commission (JLARC) approved a staff study of the Children's Services Act (CSA). (See Appendix A for the study resolution.) CSA is a state-supervised and locally administered program whose purpose is to identify and pay for services that can benefit some of the state's most at-risk children, including children in foster care and children with serious emotional and behavioral problems. The study resolution required this review to examine:

- state and local spending through CSA on services for at-risk children;
- drivers of spending growth in the CSA program;
- cost-effectiveness of services, including how decisions are made about which services at-risk children receive, especially for private day placements for special education;
- state and local oversight and administration of the CSA program; and
- gaps in available services for at-risk children.

To complete this review, JLARC staff interviewed staff from the state Office of Children's Services (OCS), local CSA program staff, special education staff from local school divisions, private providers of children's behavioral health and special education services, and parents whose children have received CSA-funded services. JLARC staff also surveyed local CSA program staff, CSA case managers, and private special education day school providers. In addition, JLARC staff analyzed spending and service use data provided by OCS and the Virginia Department of Education (VDOE). (See Appendix B for more detail on the research methods used in this study.)

CSA was created to more efficiently and effectively serve children who required services from multiple programs and to avoid unnecessary spending on expensive congregate care services, such as psychiatric hospitals and group homes. Prior to CSA's enactment in 1992, four state agencies oversaw services for at-risk children (sidebar) and eight different funding streams paid for these services. This decentralized approach prevented strategic, multi-disciplinary service planning and delivery.

JLARC previously studied CSA in 1998 and in 2006. These reports included recommendations for administrative changes and ways to reduce the use of residential services for children.

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The Children's Services Act was originally known as the **Comprehensive Services Act for At-Risk Families and Youth**, but the name was changed in 2014.

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**Before CSA was enacted,** four agencies oversaw services for at-risk children separately: Department of Social Services, Virginia Department of Education, Department of Juvenile Justice, and Department of Behavioral Health and Developmental Services.

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## **CSA funds and coordinates the delivery of services for Virginia's most vulnerable children**

CSA serves children who are considered at risk of being placed in foster care, a group home, or residential treatment facility because they are having a significant emotional or behavioral problem, or have experienced abuse or neglect. Often, these two categories overlap. Children in CSA-funded services frequently suffer from emotional disturbances like depression, anxiety, conduct disorder, or bipolar disorder. They may also display behaviors that are difficult or dangerous, like emotional outbursts, aggression toward others, or self-harming or suicidal behaviors. These issues vary in severity among children, but they create disruptions both at home and in school.

CSA also provides funding for placements in private special education day schools for students with disabilities whose behaviors are so challenging they cannot be managed in public schools. Children placed in private day schools most often have an emotional disturbance, autism, or some other childhood mental health issue.

At-risk children can be eligible for CSA-funded services under two broad eligibility categories: "mandated" and "non-mandated" (Figure 1-1). Local CSA programs must serve children that fall into the mandated category, and funding for these children is "sum-sufficient," meaning that both the state and local funds must cover the entire cost of needed services. Children who are eligible for CSA funded-services in the non-mandated category have persistent emotional and behavioral issues that are significant but less severe than children in the mandated category. Localities are not required to serve these children. Over 95 percent of children (14,676) served by CSA in FY19 were in the mandated eligibility category.

The majority of local CSA programs are housed within the local Department of Social Services (DSS), but the CSA program still operates independently in administration and budgeting. CSA programs are part of general local government or other agencies like the local Department of Health.

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Because all children are entitled to a free and appropriate education (FAPE) by federal law, some services, like private special education day school, are exempt from parental contributions.

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Children are referred to their local CSA program through several sources, including the local DSS, community services board (CSB), the local juvenile court services unit, or their school. Parents can also refer their children directly to CSA. As part of planning a child's CSA-funded services, the local CSA program will collect financial information from families to determine if they must pay a portion of services their child receives (sidebar). Parent contributions are determined by income levels set by each locality. About 5 percent of children required copays in FY19.

**FIGURE 1-1**  
**CSA has two broad eligibility categories**

**“Mandated” eligibility criteria**

- Under age 18 (21 or younger for certain services) **AND**
- Receiving services to prevent foster care placement (“foster care prevention services”) because of abuse or neglect **OR**
- Receiving services to prevent foster care placement because of severe emotional or behavioral needs (CHINS) **OR**
- Placed in foster care because of abuse or neglect **OR**
- Placed in foster care because of severe emotional or behavioral needs (CHINS) **OR**
- Placement in a private day school required by IEP

**“Non-mandated” eligibility criteria**

- Under age 18 **AND**
- Does not meet mandated criteria, **BUT**
- Experiences emotional/behavioral problems that persist over time **AND**
- Are significantly disabling in several community settings **AND**
- Require services, resources, or interventions from at least two agencies **OR**
- Experiences emotional/behavioral problems that put a child at risk of entering residential care



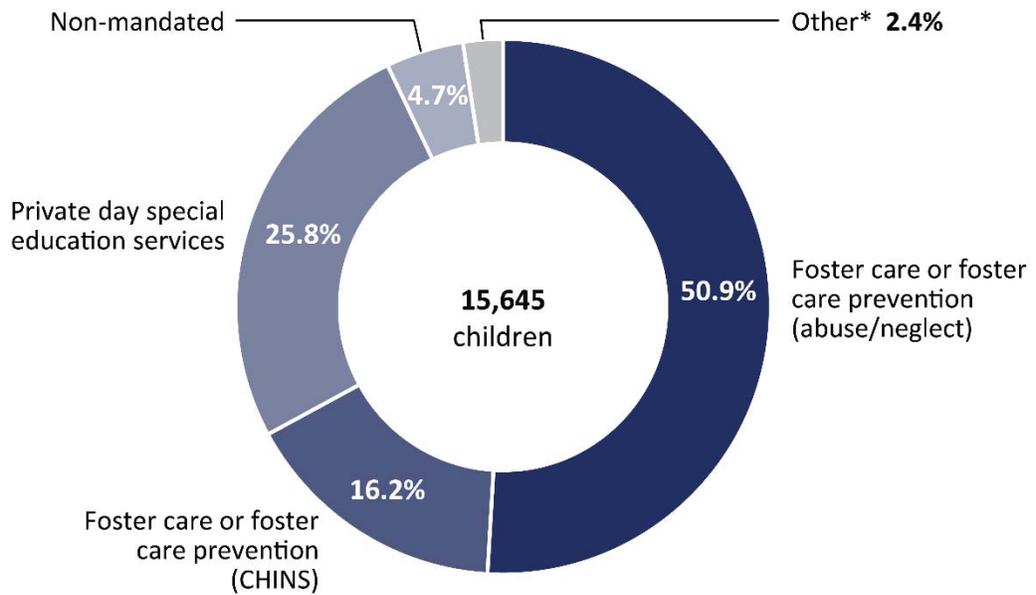
SOURCE: CSA Policy Manual and Code of Virginia.

NOTE: A child is considered a Child in Need of Services (CHINS) under Virginia law when he or she has persistent emotional or behavioral issues that threaten the child’s well-being or the well-being of others and is at risk of being placed in a living situation outside the home, like foster care or residential treatment. While 47 percent of localities do not serve non-mandated children, these localities tend to be smaller, accounting for only 18 percent of the state’s child population.

CSA served about 15,600 children in FY19, the majority of whom were eligible for services because they were in foster care or foster care prevention services or needed private day special education services (Figure 1-2). In FY19, the majority of CSA children were male (61 percent), white (59 percent), and age 13 or younger (57 percent). About 31 percent of children served by CSA were Black. Seven percent of children served by CSA were Latino. Children tend to receive CSA-funded services for just under two years and enter services at 11 years old, on average.

In FY19, Black children made up 20 percent of all children in Virginia, Latino children made up 11 percent of all children in Virginia, and white children made up 65 percent of all children in Virginia.

**FIGURE 1-2**  
**Most children receive CSA funding for foster care and foster care prevention services**



SOURCE: JLARC analysis of OCS utilization data, FY 2019.

\*Wraparound services for students with disabilities (1.3%) and court-ordered for truancy or delinquency (1.1%). Wraparound services are services provided to a child through CSA, in addition to the services in the IEP, to keep them out of a more restrictive placement.

NOTE: A child is considered a Child in Need of Services (CHINS) under Virginia law when he or she has persistent emotional or behavioral issues that threaten the child's well-being or the well-being of others and is at risk of being placed in a living situation outside the home, like foster care or residential treatment.

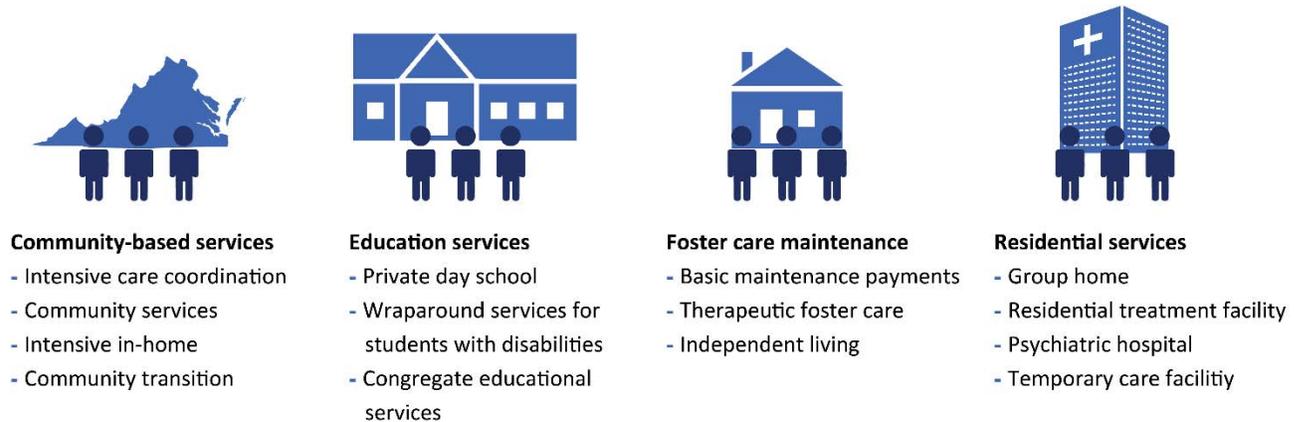
CSA funds four major types of services for children: (1) foster care maintenance payments, (2) community-based behavioral health services, (3) special education services, and (4) residential services (Figure 1-3). (See Appendix D for a description of these services.)

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**Adapting JLARC style guide to capitalize races and ethnicities:** Many news organizations and writing style guides recently have been debating how to capitalize races and ethnicities in their publications. JLARC staff have been monitoring this debate to determine how to adapt the JLARC style guide. As of November 2020, JLARC staff have decided to capitalize Black when referring to race to reflect a generally shared culture and identity. JLARC will not capitalize white when referring to race because hate groups have traditionally capitalized white. This approach is used by the Associated Press and most major news organizations. JLARC staff will continue this debate and adapt the JLARC style guide accordingly.

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**FIGURE 1-3**  
**CSA funds four major categories of services for children**



SOURCE: CSA User Guide.

## **Localities are responsible for the administration of the CSA program under state supervision**

CSA is a state-supervised, locally administered program, and localities have significant discretion about how their local CSA program operates. At the state level, CSA is overseen and administered through three entities: the State Executive Council for Children's Services (SEC), the State and Local Advisory Team (SLAT), and OCS (Figure 1-4). The Code of Virginia outlines powers and duties for each of these entities. OCS directly oversees local CSA programs to ensure compliance with state CSA policies, which are set by the SEC. Localities consult with SEC to help inform CSA policies through the SLAT.

### **Three entities are involved in administering CSA at the state level**

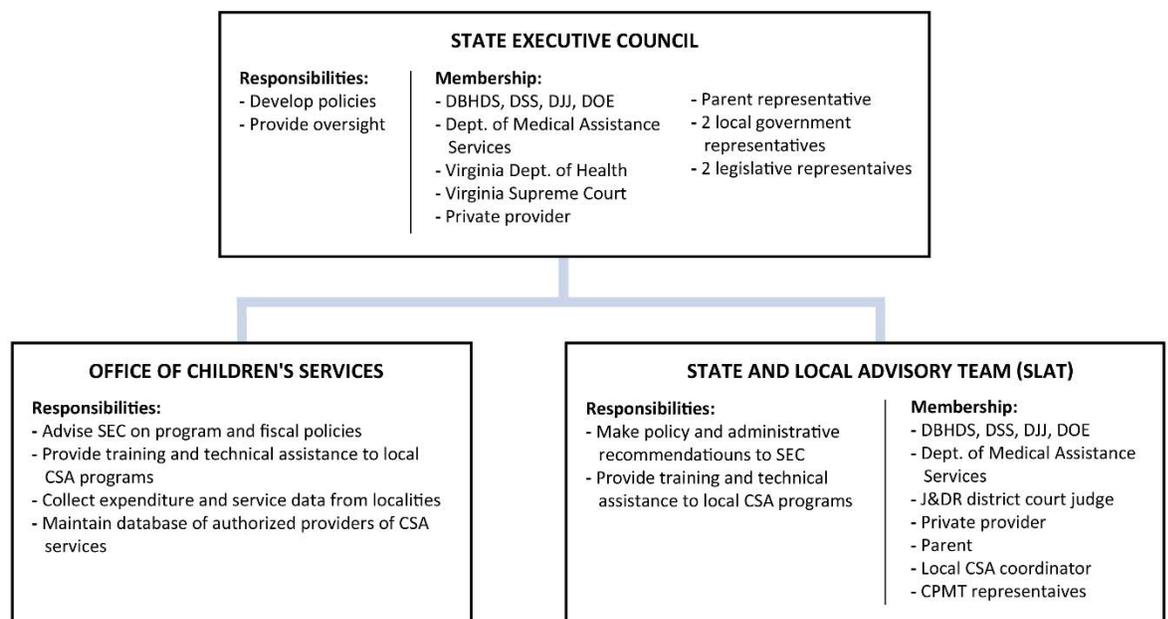
The Office of Children's Services (OCS) is the state agency that oversees localities' implementation of CSA. OCS has 14 staff members who include program consultants, auditors, information technology and finance staff, and leadership and administrative staff. Through audits, OCS ensures that local CSA programs meet all administrative requirements for CSA, correctly apply eligibility criteria to children, and request appropriate reimbursement for eligible services. OCS program consultants and leadership work directly with localities to help interpret CSA policies and provide orientation and ongoing training to local CSA program staff.

The SEC has broad authority to establish CSA policies and hires and supervises the OCS director. The SEC is chaired by the secretary of health and human resources and is made up of several state agency directors, members of the General Assembly, local government representatives, private provider representatives, and parent representa-

tives. Examples of recent SEC actions include requiring localities to use the same assessment tool for all CSA children and expanding opportunities for public comment on proposed CSA program changes.

The State and Local Advisory Team (SLAT) makes recommendations and advises the SEC from a local perspective. SLAT is appointed by the SEC and is made up of representatives from several state agencies, local representatives from CSA programs across the state, a private provider, and a person who has previously received CSA services. In addition to advising the SEC, SLAT can also consult with state agencies and localities to help improve children's services.

**FIGURE 1-4 Three entities oversee and administer the CSA program**



SOURCE: CSA Policy Manual and Code of Virginia.

**Localities develop children's service plans through an interdisciplinary team, arrange service delivery, and monitor children's progress**

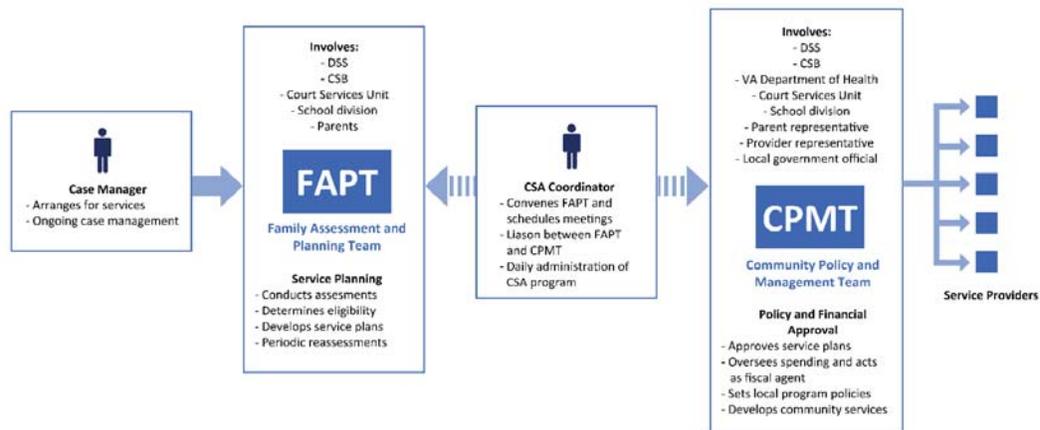
CSA's interdisciplinary planning process is modeled after the **systems of care** approach, which emphasizes coordination of service providers and partnership with families and children in addressing a child's challenges.

Two interdisciplinary teams are responsible for administering CSA on the local level: the Family Assessment and Planning Team (FAPT) and the Community Policy and Management Team (CPMT) (Figure 1-5). FAPT is the interdisciplinary team that creates service plans for children in CSA, and CPMT is the team that gives final approval for service plans and payment for services. CPMT is also responsible for setting local CSA policies.

Each locality has staff that are at least partially dedicated to administering the CSA program's daily operations, and the General Assembly appropriated \$2.1 million to

support local CSA administration in FY19. The primary position is the CSA coordinator position. CSA coordinators take referrals from local agencies or families, schedule meetings of the FAPT and CPMT, and support the operations of the two teams. CSA coordinators are local employees and work for local agencies, such as the local DSS or the county administrator or city manager’s office. Some localities—especially larger ones—employ staff in addition to the CSA coordinator to help administer the program.

**FIGURE 1-5**  
**Two interdisciplinary teams plan and approve services for CSA children**



SOURCE: CSA policy manual.

***FAPT develops children’s service plans and monitors children’s progress***

FAPT brings all necessary public programs and providers together with the child and family to assess a child’s needs and determine appropriate services. FAPT is designed to encourage an interdisciplinary, collaborative approach to children’s services, one of the primary goals of CSA. The case manager from the agency that referred the child to CSA typically brings service recommendations to FAPT, which then produces a service plan for a child based on the team’s and case manager’s assessment of a child’s needs.

Each FAPT includes representatives from the local department of social services, school division, community services board, and juvenile court services unit. The child’s case manager is also present for FAPT meetings. FAPT must also include parents, as parental involvement in children’s services is a central goal of CSA. Local CSA programs have discretion to include other members on FAPTs, such as private providers who are working with a child, a child’s court-appointed guardian, and representatives of other public agencies like the local health department. After a child is referred to the CSA program, FAPT members initially review a child’s case to place them in services and then meet periodically to assess the child’s progress and adjust or add services

as necessary. Localities typically have regularly scheduled FAPT meetings, and children are added to the agenda as soon as there is a space.

***CPMT provides administrative guidance and fiscal oversight for local CSA programs***

The other interdisciplinary team, CPMT, establishes local policies and approves the payment of services for children and families. CPMTs ensure referred children are eligible for CSA funding and ensure FAPT's service plans can be paid for with CSA funds. Like FAPT, CPMT is an interdisciplinary team made up of representatives from local government administration, local child-serving agencies, private providers, and a parent representative. Members of CPMT are usually local agency leaders and managers, whereas FAPT members are front-line agency staff who work more directly with children and families. CPMT is appointed by the local government and has ultimate decision-making power at the local level about whether a service can be paid for with CSA funds.

Localities are responsible for monitoring children's progress and outcomes. FAPT monitors individual children's progress on a regular basis through regular FAPT reviews. CPMT is responsible for monitoring CSA outcomes for the entire community, such as the number of children in residential treatment or how long children remain in a private day schools.

**State and localities share costs for CSA-funded services, but CSA only pays after funds from other sources have been exhausted**

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"Sum sufficient" means that funding must be provided to cover the services approved by local CSA programs for children in a mandated eligibility category.

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The General Assembly appropriates CSA state funds at a sum-sufficient level (sidebar) for services provided to children in the mandated eligibility category. Federal and local matching funds also pay for children's services. The combined state and local funds comprise the "CSA pool." The SEC dedicates a portion of CSA state funds to serve children in the non-mandated category, but localities are not required to serve these children. In addition, funds for children who receive services in the non-mandated category are not sum sufficient, so localities cannot ask the state for additional funds to cover services for these children.

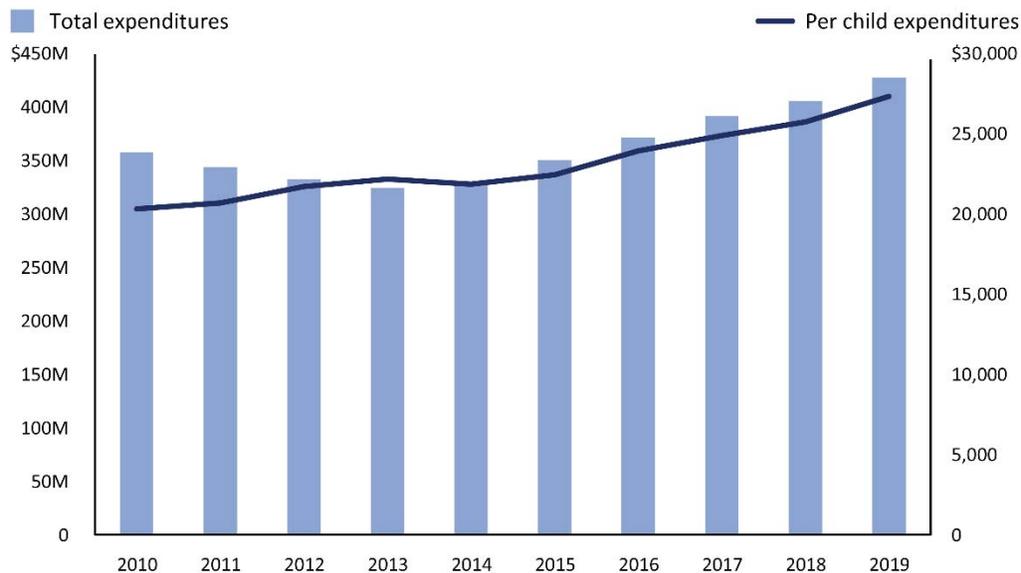
The state allocates CSA funding to localities. Because the funding is sum sufficient for children in mandated eligibility categories, localities can request more state funding for services. Localities must match state CSA funding for children's services, and match rates differ by locality and type of service. When CSA was enacted, several different funding streams were consolidated, and each had its own local match rate. These base match rates were factored into a new match rate that has been in effect since 1997. In 2008, the state introduced different match rates for certain services. For example, localities pay a higher share of residential services costs than for community services. Local match rates are described in Appendix F. Localities pay providers directly for services for children and request reimbursement with CSA pool funds through OCS.

Some of the same services that CSA pays for can be funded with Medicaid and Title IV-E funds, for eligible children. These funding sources must fund services and be exhausted before CSA funds can be used. Title IV-E funds, which are federal funds for children receiving foster care services, are administered separately through the Virginia Department of Social Services and are not part of the CSA pool. Children in foster care who do not meet the eligibility requirements for Title IV-E funding have their foster care maintenance payments covered with CSA pool funds.

## CSA spending has increased over the past five years, driven by increased spending for private day schools

Total CSA spending and spending per child has increased by 22 percent over the last five years (Figure 1-6), while the number of children served increased by less than 1 percent during this time period. Total CSA spending was \$427 million in FY19, an increase of 5.6 percent over the previous fiscal year. Spending per child in FY19 was \$27,298, an increase of 6.2 percent from FY18.

**FIGURE 1-6**  
Total and per child CSA spending has been increasing since FY15 (\$millions)



SOURCE: JLARC analysis of CSA spending data.  
NOTE: Calculations are based on gross CSA spending.

More children are receiving private special education day services, which cost significantly more per child than other CSA-funded services (Figure 1-7), driving much of the program's spending growth. The average CSA spending on a child in private day school is just under \$50,000 per year, compared with about \$20,000 per year for children in foster care. Private day school spending has eclipsed spending on other types

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**Gross expenditures** are used throughout this report, rather than net expenditures. The gross expenditure is the total amount spent by the program prior to accounting for refunds or any other transactions that can affect the final net expenditure amount. Net expenditures were not used because OCS does not collect detailed information on other accounting transactions, so net expenditures cannot be calculated by service type or at any other more detailed level.

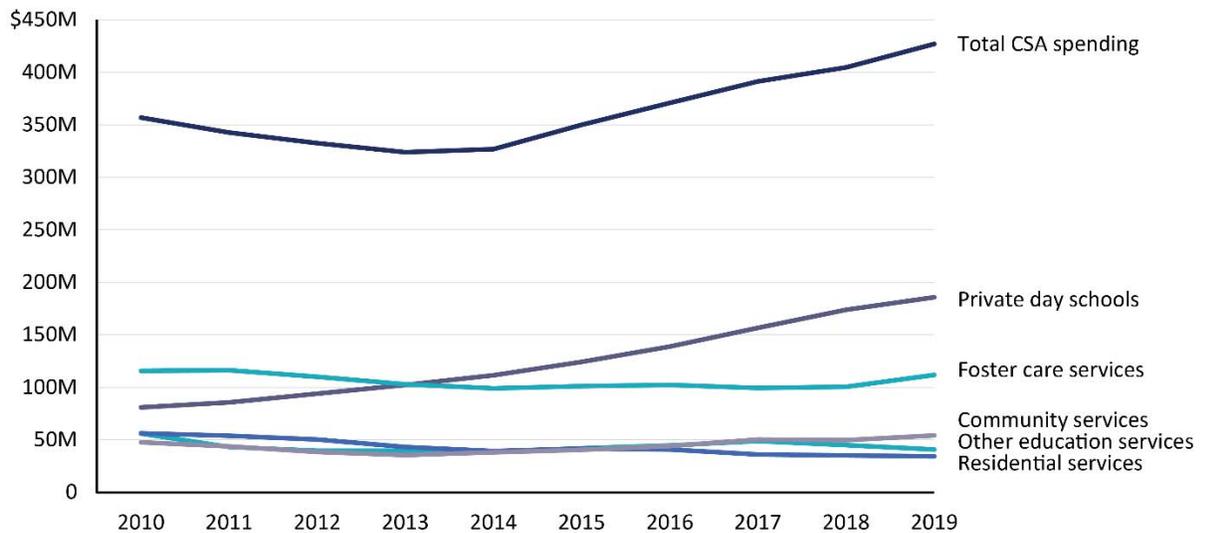
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of CSA services, and, if these trends continue, private day spending will constitute the majority of CSA spending.

Fewer CSA children are placed in residential and foster care services than they were 10 years ago and make up a smaller proportion of children served by CSA. The proportion of CSA children receiving community services grew between 2009 and 2011 but has remained stable over the last several years (Figure 1-8).

Total CSA spending growth over the last decade has been less than larger state programs that provide health care, behavioral health, and educational services (Table 1-1). However, the program’s spending growth in the past five years has approached the growth rates in these other programs and has exceeded general fund growth.

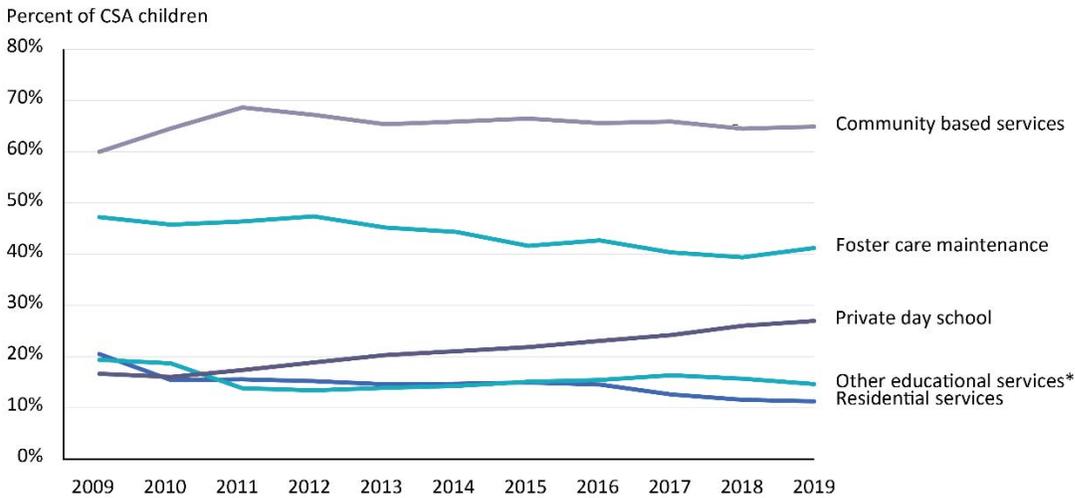
**FIGURE 1-7**  
**Spending on private day school is driving CSA spending increases (\$millions)**



SOURCE: JLARC analysis of CSA spending data.

NOTE: Other educational services include the cost of educational services for a child in a residential placement. Calculations are based on gross CSA spending.

**FIGURE 1-8**  
**Use of residential services declined as private day school use increased**



SOURCE: JLARC analysis of CSA utilization data.

NOTE: A child can receive services in different service categories at the same time, so the percentages for each service category do not sum to 100.

\*Other educational services include the cost of educational services for a child in a residential placement.

**TABLE 1-1**  
**CSA spending growth in recent years has been similar to spending growth in other state programs that serve children**

| Budget area  | Percentage increase in spending between FY10 and FY14 | Percentage increase in spending between FY15 and FY19 |
|--|---|---|
|  | (5 years)   | (5 years)   |
| CSA spending on services, total funds                      | -8%   | 22%   |
| Child welfare services (DSS), general funds                | 8%  | 23%   |
| Grants to localities (CSBs), general funds                 | 18%   | 29%   |
| Health and human resources secretariat area, general funds | 32%   | 28%   |
| Direct aid to public education, general funds              | 10%   | 16%   |
| Education secretariat area, general funds                  | 8%  | 16%   |
| Total state budget, general funds                          | 20%   | 18%   |
| Total state budget, all funds                              | 17%   | 24%   |

SOURCE: JLARC analysis of state budget data.

NOTE: Calculations are based on gross CSA spending.



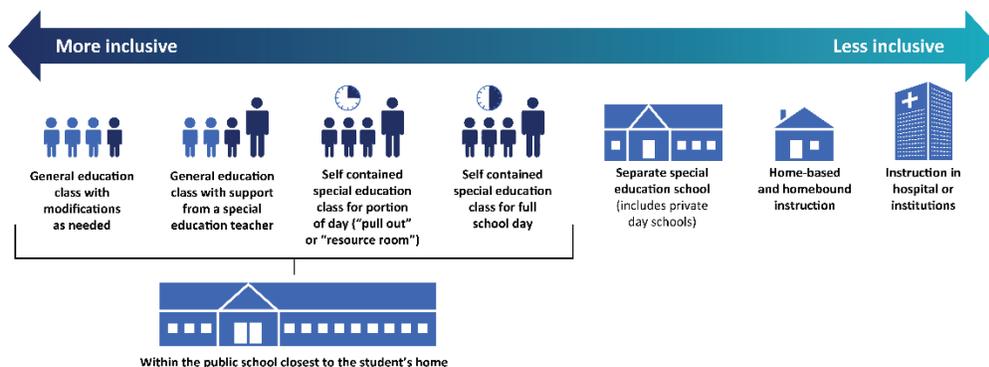
# 2 Spending on Private Special Education Day Schools

Private day school is the fastest-growing service funded by the Children’s Services Act (CSA). However, local CSA programs have no control over spending for special education private day school services because school placement and service decisions are made by a child’s Individualized Education Program (IEP) team, with parental consent. In 2019, over 4,000 students were enrolled in 85 private day schools throughout the Commonwealth at a median annual cost of \$54,000 per child.

## Private day schools play a valuable role in special education

Private day schools are one of several options for students with disabilities who cannot be appropriately served in a general education classroom. The federal Individuals with Disabilities Education Act (IDEA), which governs how special education is provided to students with disabilities, requires that school divisions educate students with disabilities in the same environment with students who are not disabled, to the maximum extent appropriate. IDEA also states that removal of students from the regular educational environment should occur only when “the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.” Placement in a private day school is considered a more restrictive placement than a placement within a student’s home school because the student does not have access to his or her peers without disabilities.

**FIGURE 2-1**  
Private day schools are more restrictive placements than those in a student’s home public school



SOURCE: Virginia Department of Education, "Parent’s Guide to Special Education."

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**Childhood mental disorders** are disruptions in how children typically learn, behave, or handle emotions, which can interfere with functioning in school, in home, or in other social situations. Examples include anxiety, depression, oppositional defiant disorder, conduct disorder, and Tourette syndrome.

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A **self-contained classroom** is one that is separate from general education classrooms but still housed within the local public school. The classroom serves only students with disabilities, and a special education teacher teaches all subjects.

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**JLARC staff interviewed special education directors and coordinators at 23 school districts** throughout the state to learn about why students are placed in private day school, the services private day schools provide, their working relationships with private day schools, and their perceptions about the quality of private day schools.

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A common reason that IEP teams place children with disabilities in private day schools is because they exhibit challenging behaviors that public schools are unable to manage. Children placed in private day schools most often have an emotional disturbance, autism, or some other childhood mental disorder (sidebar). The behaviors may include disruption (banging, kicking or throwing objects, yelling, crying, or swearing), running away, incontinence, refusing to take direction from teachers or other adults in authority, physical aggression toward others (hitting, biting, scratching, pushing, or kicking others), property destruction, self-injury, sexually inappropriate behavior, threatening behavior, tantrums, or verbal aggression (Case Study 2-1 and 2-2).

### CASE STUDY 2-1

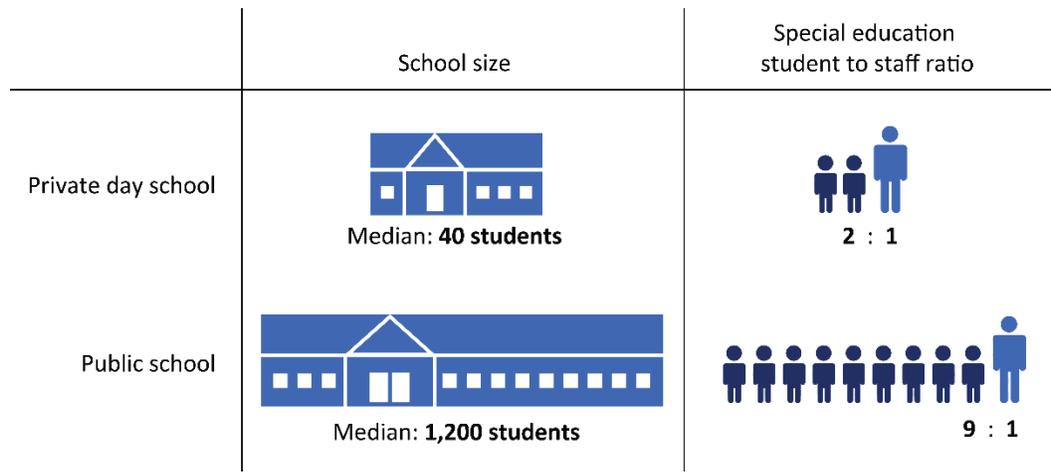
A 15-year-old male has been placed in a private day school for the past 18 months. The school division identified him as a student with autism and served him in a self-contained classroom in his local public school until the eighth grade. At this point, the student began to exhibit new challenging behaviors, including aggressively hitting or slapping staff members, throwing objects and furniture, inappropriately touching himself, and suddenly lying on the ground. In addition to the new behaviors, the student stopped making progress on his IEP goals. The IEP team determined that the new behaviors and lack of progress necessitated a private day school placement.

### CASE STUDY 2-2

A 10-year-old male in fifth grade has been placed in a private day school since he was in kindergarten. The school division identified him as a student with an emotional disturbance, specific learning disability, and other health impairment. The student makes verbal threats to other students and staff, walks out of classrooms without permission, and refuses to complete work. The student also hides from staff, wanders around the classroom, and sleeps in the classroom. To make any learning progress, the student requires one-on-one instruction.

Private day schools offer a small environment and high staffing levels that can benefit students with challenging behaviors. According to special education directors and private day school operators, school size and staffing ratios are the most significant differences between public schools and private day schools (sidebar). The median capacity for Virginia private day schools is 40 students compared with a median of 1,200 students for public schools (Figure 2-2). The staffing ratio in private day schools is typically two or fewer students per staff member compared with a staffing ratio of approximately nine students per staff member in public schools. These features can help students who exhibit challenging behaviors because the small environment minimizes distractions, and the high staffing level helps schools to implement behavioral management plans more consistently.

**FIGURE 2-2**  
**Private day schools are smaller and have more staff per student than public schools**



SOURCE: JLARC Private Day School Data Collection; VDOE Superintendent Annual Reports 2018-2019, Table 17. VDOE School Quality Profiles, Enrollment (by school).  
 NOTE: Staff included in the ratios are all student support staff, including teachers, paraprofessionals, aides, counselors, social workers, and others.

## Increasing private day school enrollment accounts for half of private day spending increases

If spending trends continue, within the next few fiscal years the majority of the CSA program’s expenditures will be for private day school services. In 2019, private day spending accounted for 44 percent of all CSA spending. CSA spending for private day school has more than doubled since FY10, growing by approximately 14 percent per year from \$81 million to \$186 million. (The state general fund portion of CSA spending for private day school increased from \$51 million in FY10 to \$118 million in FY19.) Private day spending has also taken up an increasingly higher percentage of general fund spending on K–12 special education, growing from 10 percent of state general fund spending on special education in FY10 to 19 percent in FY19 (Figure 2-3).

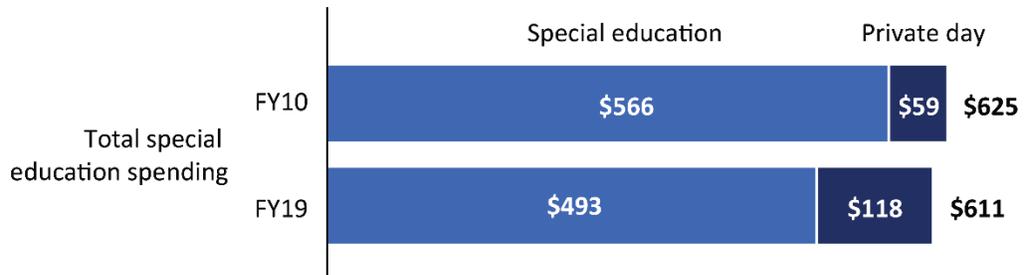
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Private day school spending for FY20 was on track to eclipse FY19 until schools shut down for the COVID-19 pandemic. Spending through the end of February 2020 was 13 percent higher than spending through February of the previous fiscal year.

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**FIGURE 2-3**

**Private day school spending has grown as a portion of the state’s total special education spending**



SOURCE: JLARC analysis of VDOE special education spending data and CSA expenditure data.

NOTE: State general fund spending only, adjusted for inflation.

**Rising private day school spending is explained by increasing enrollment, increasing tuition, and greater use of services**

Students eligible for special education are also entitled to **related services**, which are non-instructional services to support students’ ability to benefit from specially designed instruction. Examples include physical and occupational therapy, speech and language therapy, and one-on-one aides.

Three factors explain the increase in private day spending growth over the past decade. First, the increasing number of students enrolled in private day schools accounts for half of private day spending growth (Table 2-1). A second factor is increasing tuition rates, which accounted for 25 percent of the growth. A third factor, also accounting for 25 percent of the growth, is an increase in the amounts of services children received, either in terms of more school days or more related services (sidebar).

**TABLE 2-1**  
**Three factors contribute to private day spending increases (2010–2019)**

| Reason for increased spending in private day school | Amount of increase (\$ millions) | Percentage of increase |
|---|----------------------------------|------------------------|
| More students                                       | \$52.0                           | 50%                    |
| Tuition rate changes                                | 26.4                             | 25%                    |
| More service per student                            | 26.5                             | 25%                    |
| <b>Total</b>  | <b>\$104.9</b>                   | <b>100%</b>            |

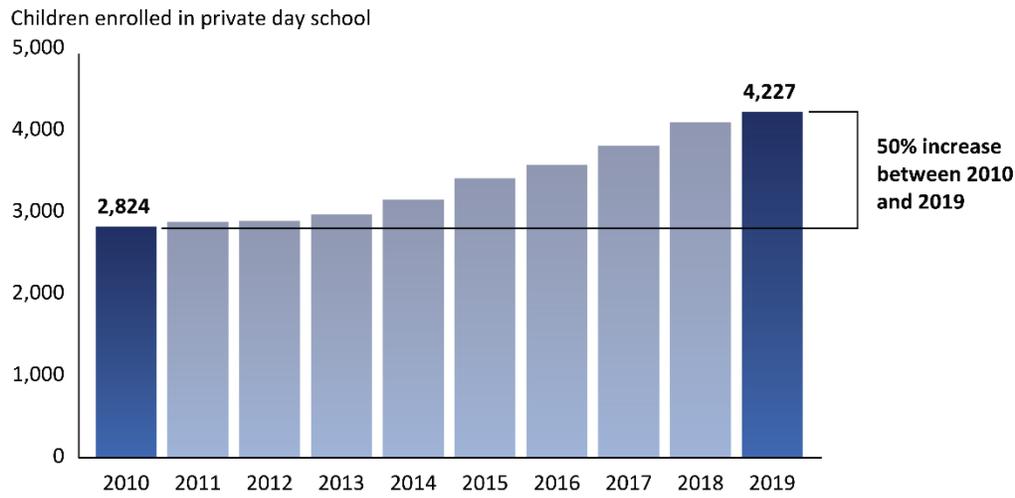
SOURCE: JLARC analysis of CSA expenditure data.

NOTE: Figures may not add because of rounding.

***Increased enrollment is the largest component of private day school spending increases***

Private day school enrollment has grown 50 percent over the past 10 years (Figure 2-4). The number of students enrolled in private day school grew twice as fast in the second half of the 10-year period (6 percent per year) than it grew in the first half (3 percent per year).

**FIGURE 2-4**  
**Private day school enrollments have increased by 50 percent**

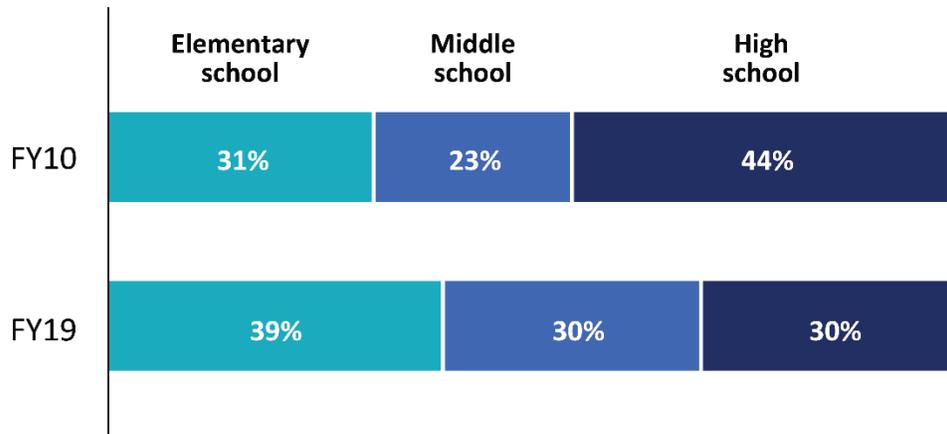


SOURCE: JLARC analysis of CSA expenditure data.

The private day school enrollment increase can be explained by three factors: more children newly placed in private day school each year, children being placed in private day school at younger ages, and children spending more time in private day school. The number of children enrolled in private day school for the first time has increased by 20 percent between FY10 and FY19 (compared with 5 percent for the overall number of students receiving special education services.) Additionally, the median age at which children are first placed in private day school declined from 14.3 years old in FY10 to 13.1 years old in FY19. In FY10, 54 percent of children placed in private day school for the first time were in elementary or middle school. By FY19, 69 percent of children placed in private day school for the first time were in elementary or middle school (Figure 2-5).

When children are placed in private day school at younger ages, they tend to stay longer. The median stay in a private day school is approximately two years, but younger children are more likely than older children to stay in private day school for longer than the median of two years. Elementary school age children were almost four times more likely than high school age children to stay in private day school for three years or longer (Table 2-2).

**FIGURE 2-5**  
**Children are placed in private day school at younger ages, compared to 10 years ago**



SOURCE: JLARC analysis of CSA expenditure data.

**TABLE 2-2**  
**Elementary school students are more likely than middle and high school students to stay longer in private day school**

| Students' grade level when first placed in private day school | Length of stay in private day school |        |         |                 |
|---|--------------------------------------|--------|---------|-----------------|
|   | Less than 1 year                     | 1 year | 2 years | 3 years or more |
| Elementary school   | 18%                                  | 16%    | 11%     | 54%             |
| Middle school   | 26%                                  | 18%    | 14%     | 42%             |
| High school   | 46%                                  | 26%    | 16%     | 13%             |

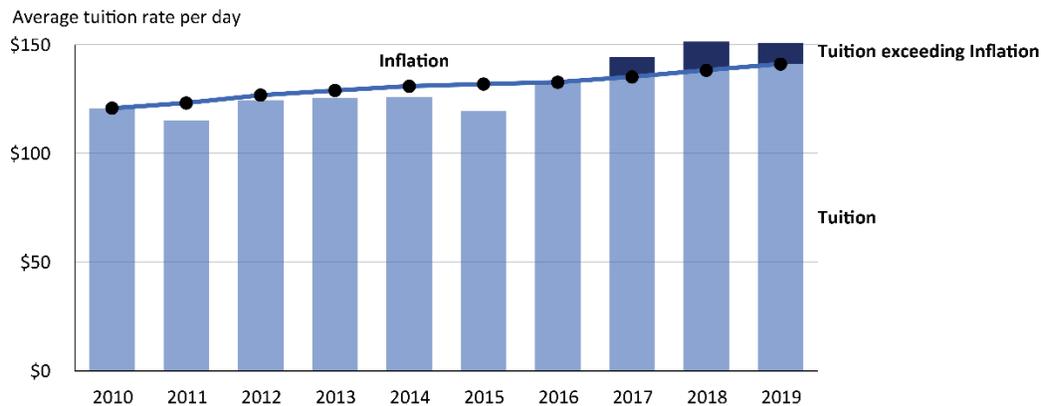
SOURCE: JLARC analysis of CSA expenditure data.

NOTE: Figures may not add because of rounding.

***Higher tuition and use of additional services offered by private day schools also contributed to private day school spending increases***

Increased tuition rates also contributed to increased private day school spending, and tuition rate increases have recently exceeded inflation. Tuition rates (for both private day school and related services) increased by 25 percent between FY10 and FY19, or an average of 3 percent annually. Until 2017, tuition rates generally grew at a rate similar to inflation or slightly below inflation (Figure 2-6). Beginning in 2017, tuition rate increases exceeded inflation.

**FIGURE 2-6**  
**Tuition rate increases began exceeding inflation in 2017**



SOURCE: JLARC analysis of CSA expenditure data.

NOTE: Tuition rates reflect a combination of rates charged for private day school tuition and rates charged for related services that students receive during their school day, such as one-on-one aides or speech therapy. The OCS data system did not allow for separating these costs out prior to 2017.

Increases in the *use* of private day school, through school days attended per year and use of related services, has also led to spending increases. Between 2010 and 2019, the amount of service that each student used increased by an average of 3 percent annually, and from 2017 to 2019 this appears to be due to greater use of related services. Spending on related services increased by 13 percent, from \$25 million to \$29 million, in three years. Spending for additional days of school attended in a year increased by 8 percent during that same time period.

### **School districts send more students to private day schools because of increasingly challenging behaviors and reduced special education funding**

The prevalence of trauma and other conditions associated with challenging behaviors has increased among children. According to special education directors across the state, the types of challenging behaviors that often result in private day school placement are usually associated with underlying trauma, autism, or some other childhood mental disorder. Evidence suggests that the prevalence rates of all of these conditions are increasing.

An increasing number of children receiving CSA services have experienced trauma, and special education directors frequently cited trauma as one of the reasons why the number of children with challenging behaviors was increasing. Research suggests that that when children have been exposed to “adverse childhood experiences,” they are more likely to develop behavioral and learning problems (sidebar). Of children who received an initial assessment for CSA services using the CANS tool, the percentage of children who reported experiencing trauma grew by 20 percent between FY10 and FY19 (sidebar).

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The 2019–20 Appropriation Act contained language that capped the rates paid by the state for private day school tuition in FY20 to no more than 2 percent above the rates paid in FY19. Based on CSA’s preliminary expenditure data for FY20, this tuition increase limit did not appear to result in any downward pressure on private day school costs.

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**Adverse childhood experiences (ACEs)** are potentially traumatic events that happen during childhood. Some examples include: child abuse; physical or emotional neglect; having an incarcerated parent or other relative; or parent or household substance abuse.

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The CSA program assesses children’s needs and strengths using a uniform assessment called the **Child and Adolescent Needs and Strengths Assessment, or CANS**. If children report any incidence of trauma on the core domains, a separate trauma assessment is triggered. The percentage of children that had a trauma assessment triggered grew by 20 percent between 2010 and 2019.

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The National Survey of Children's Health (NSCH) collects information about children's health and well-being through surveys of parents. NSCH is funded and directed by the U.S. Health Resources and Service Administration (HRSA).

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The prevalence of autism and other childhood mental disorders has also increased in this same time period. According to the Centers for Disease Control and Prevention (CDC), the prevalence of autism increased by over 60 percent between 2008 and 2016, from one in 88 children to one in 54 children. Virginia's special education data shows an even more dramatic increase in the prevalence of autism in a similar timeframe; Virginia students identified with autism increased by 124 percent between 2009 and 2018. National data also indicates that the prevalence of childhood mental disorders, particularly behavioral or anxiety problems, has increased. The National Survey of Children's Health (sidebar) reported that the number of children who had ever had behavioral or anxiety problems doubled between 2007 and 2018.

While the number of students receiving special education services and the severity of their needs have been increasing, state and federal funding to public schools for special education services has declined. Between FY10 and FY19 the number of special education students increased by 8 percent, from 145,000 students to 157,000 students. Over that same period, federal and state funding for the average school division fell from \$7.0 million in FY10 to \$5.8 million in FY19. The \$118 million that CSA spent on private day schools represents 20 percent of all special education funding in FY19, however state law and policy does not allow these funds to be used for services in public schools even if these services could prevent private day school placements (see Chapter 3).

### **Tuition rates generally reflect private day school costs**

Private day schools cost more than educating students with disabilities in public schools, and tuition rates can vary substantially among private day school programs. In 2019, the average annual cost for a child attending private day school was \$44,000, and the average cost to serve a student with disabilities in public school was approximately \$27,500. Private day school tuition rates ranged from \$22,000 to \$97,000 per year with a median tuition rate of \$54,000.

Despite a lack of transparency into tuition rate variation and reasons for annual increases, private day schools generally appear to earn a reasonable profit. A JLARC staff review of some private day schools' financial information concluded that private day schools appear to charge tuition rates that are consistent with the cost of providing low student-to-staff ratios in small environments, and most schools do not earn excessive profits (sidebar). Private day schools maintain low ratios of students to staff, with a median ratio of 1.9 students per staff member.

Private day schools' primary expense is personnel due to these high staffing levels. The median school spends 74 percent of its revenue on staffing costs (wages and benefits). Over 40 percent of the staff employed by the private day schools reporting data to JLARC are in-class aides and assistants (17 out of 39 positions at an average size school), positions which do not typically require any specialized training or education credentials (Figure 2-7). Approximately 21 percent of private day school positions are teachers, and approximately 29 percent of private day school positions are board-

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JLARC staff collected financial and tuition data from private day schools to learn about profits earned and tuition rates charged by private day schools. Private day schools reported financial data from their audited financial statements.

JLARC received responses from 68 out of 85 private day schools, an 80 percent response rate.

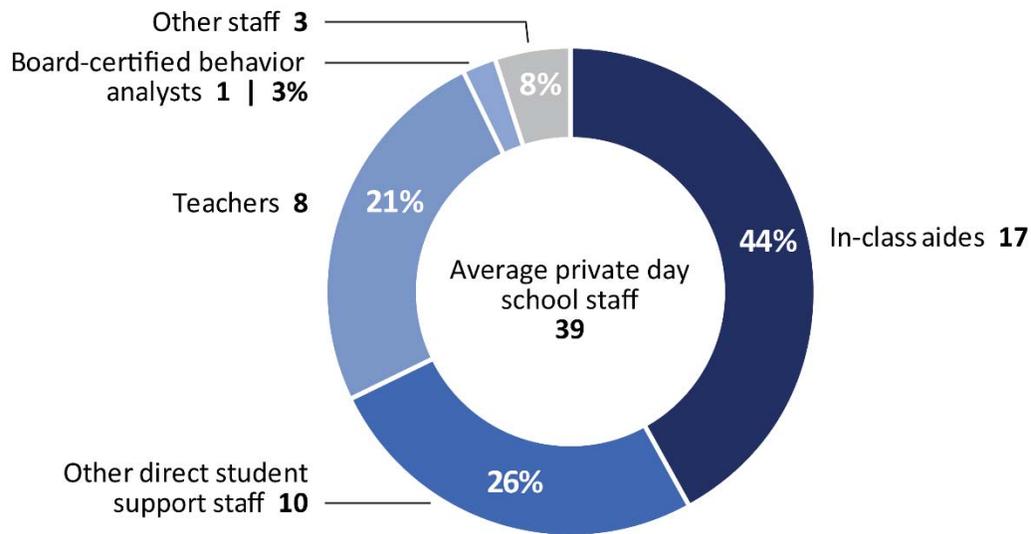
The analysis in this section is based on the data submitted by those 68 schools.

A more detailed summary of the data collected from private day schools is included in Appendix E.

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certified behavior analysts and other direct student support professionals, such as school counselors, social workers, and administrators. The remainder of the typical private day school’s expenses are building expenses and other operating expenses, such as insurance, purchased services, and training.

**FIGURE 2-7**  
**In-class aides make up the largest group of private day school employees**



SOURCE: JLARC analysis of responses to private day school finance and tuition questionnaire.

NOTE: “Other direct student support staff” includes school administrators, school counselors, social workers, instructional leads, and other staff that directly work with students.

More than half of the private day schools reporting data to JLARC generate modest profits or even financial losses. Nationally, the average profit margin for the education industry is approximately 10 percent, but the average profit margin for the private day schools responding to JLARC’s questionnaire was 6 percent. More than half of the private day schools that submitted data to JLARC (38 schools or 58 percent) generated profit levels of 10 percent or less (Figure 2-8).

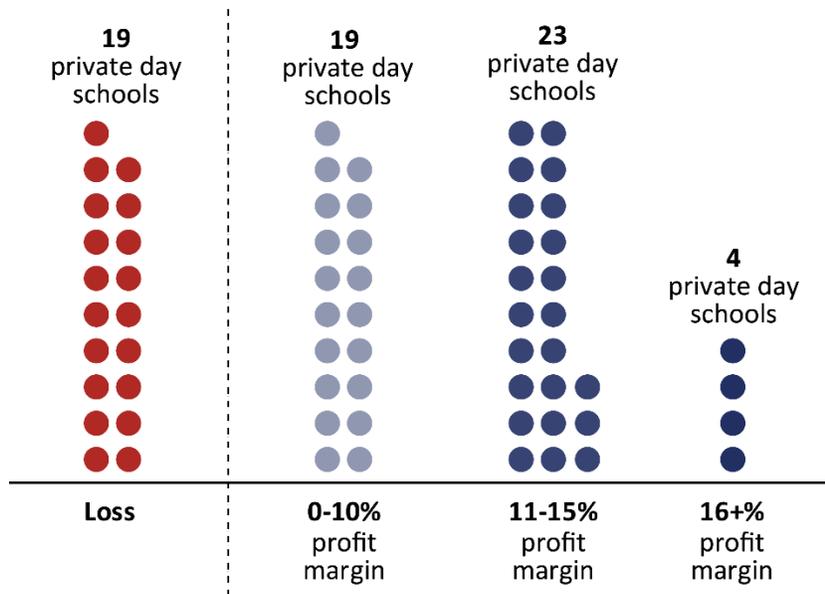
However, 27 schools generated profit levels over 10 percent, and four of those schools generated profits of 16 percent or more. These 27 schools are estimated to have earned the majority of all profits earned by private day schools in 2019. They served approximately half, 49 percent, of students enrolled in private day school in 2019 and had profits ranging from \$57,000 annually to \$5.2 million annually.

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Based on CSA expenditure data and the responses to the private day school finance and tuition questionnaire, JLARC staff estimate that **the private day schools reporting data earned approximately \$11 million in total profits in 2019**, which is approximately a 6 percent profit margin for Virginia’s private day school industry.

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**FIGURE 2-8**  
**More than half of private day schools reporting data generated profit levels of 10 percent or less**



SOURCE: JLARC analysis of responses to private day school finance and tuition questionnaire.

NOTE: Sixty-eight (68) out of 85 private day schools responded to the finance and tuition questionnaire, but only 65 provided enough information to calculate profit margins.

### Rate setting is unlikely to reduce tuition rates

The lack of insight into tuition rates has led some stakeholders to suggest that a rate-setting process should be implemented for private day school tuition rates, but evidence suggests this process is unnecessary and would not reduce spending increases. Tuition rates for private day schools in Virginia increased only slightly faster than inflation. Moreover, the tuition rates charged by Virginia schools appear to be similar to those charged by schools in other states that have asserted more state control over tuition rates. Maryland and Pennsylvania, which both exert more control over the tuition rates charged by private day schools than Virginia, had median private day schools' tuition rates in 2019 that were similar to rates charged by Virginia schools (Table 2-3).

**TABLE 2-3**  
**Private day school tuition rates are similar to rates in nearby states**

| State           | Median tuition rate<br>2019 |
|-----------------|-----------------------------|
| Maryland        | \$59,000                    |
| Pennsylvania    | \$52,000                    |
| <b>Virginia</b> | <b>\$54,000</b>             |

SOURCE: JLARC analysis of CSA expenditure data and other states' private day school tuition rates.

Implementing a rate-setting process could result in higher private day school tuition rates over time. Most states that implement a rate-setting process include a provision that allows private day schools to increase tuition at the rate of inflation each year. Maryland's process, for example, includes such a provision. However, prior to 2017, private day school tuition rates in Virginia were increasing at a rate lower than inflation. If a rate-setting process with an inflation adjustment provision had been in place in Virginia during this timeframe, private day school tuition rates would have increased more than they did.

Implementing a rate-setting process depends on the cooperation of private day schools, but many private day schools did not cooperate during a previous effort to conduct a rate study in FY19. The 2019–20 Appropriation Act included \$250,000 for OCS to contract for a study of private day school tuition rates, which also was supposed to include recommendations on how to implement a rate-setting process. OCS contracted with a national firm with experience in education rate setting to conduct the study throughout FY19. The contractor had difficulty securing private day schools' cooperation to conduct their work, which resulted in delaying the release of the final study from July 1, 2019 to October 1, 2019. When the study was released, it did not contain enough information to implement a rate setting process because too few private day schools had submitted information.

The General Assembly has directed OCS to conduct a follow-up rate study in FY21, but it is unclear whether this follow-up study will secure enough cooperation from the private day schools to develop a usable rate-setting process. The 2021–22 Appropriation Act included an additional \$250,000 to allow OCS to contract for a follow-up study of private day school tuition rates that will contain recommendations for implementing a rate-setting process. The 2021–22 Appropriation Act also directs OCS to implement statewide rates on July 1, 2021. The language in the Appropriation Act directs all private day schools that receive CSA funds to provide data for this study, and it also protects data provided for this rate study from disclosure under the Freedom of Information Act (FOIA). However, if schools do not cooperate in providing data for this is rate study, it is unclear if there is any consequence.

### **There is little transparency into private day school tuitions and fees**

OCS's online directory of providers and fees (referred to as the Service Fee Directory) is the only comprehensive source of private day school fees in Virginia; however, OCS does not validate the information submitted to the directory. The directory's information appeared to be relatively accurate, but there were some instances of missing or outdated information. Further, the directory is not user-friendly and does not include information that could help users compare providers, such as the range of tuition rates in a region, the average tuition rates for certain types of students, or how providers' rates change annually.

Enhanced reporting requirements could help stakeholders, including state and local policymakers and school division leaders, understand the full costs of private day

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The JLARC finance and tuition questionnaire requested significantly less data and less detailed data than the contractor for the OCS rate study requested. The granular level of data requested by the contractor may be necessary to set rates, but was not necessary for the research for this study. According to some private day schools, the extensive and granular level of data requested for the OCS rate study was the reason they did not cooperate in providing data.

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Chapter 3 of this report includes a recommendation to transfer responsibility for distributing funds for private special education day school services from OCS and the CSA program to the Virginia Department of Education as part of the state's K-12 special education program.

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school and how those costs change over time. Enhanced data on tuition and additional services rates, as well as more user-friendly methods for comparing rates, would help local CSA programs and school divisions understand the range of tuition and service rates charged for private day school, how those rates change from year to year, and the extent to which rate increases contribute to increases in program spending. If funding for private special education day school remains in the CSA program, this information could be reported in the Service Fee Directory maintained by OCS (sidebar).

The purpose of the Service Fee Directory is to ensure that CSA programs are informed about the availability of programs and costs of those programs. While the Code of Virginia requires OCS to develop and maintain the directory, it does not require providers to submit or update information. Market competition among schools, especially those that are for-profit, can discourage schools from publishing details about their operations, such as tuition and service rates. However, transparency is an important safeguard against imprudent uses of public funds.

To receive state funding, private day school providers should be required to report their tuition and service rates in the summer for the upcoming school year. OCS (or the Virginia Department of Education if funding responsibility is transferred) should develop a standardized reporting process to ensure that rates can be compared across schools and over time.

#### **RECOMMENDATION 1**

The General Assembly may wish to consider amending §2.2-5200 of the Code of Virginia to make the annual reporting of tuition rates charged by private special education day schools a condition for private special education day schools to receive state funds and require the Office of Children's Services (or Virginia Department of Education if funding responsibility is transferred) to publish the private day school tuition rates annually by July 1.

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#### **RECOMMENDATION 2**

The General Assembly may wish to consider amending §2.2-5200 of the Code of Virginia to direct the Office of Children's Services (or Virginia Department of Education if funding responsibility is transferred) to develop a standardized reporting process and template for private special education day school tuition rates to ensure that tuition rates can be accurately compared across schools and over time.

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# 3 Alternative Approaches to Using CSA Funds for K-12 Students with Disabilities

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Increasing and lengthier enrollments in private special education day schools are placing financial pressures on the CSA program at the state and local levels. Legislators have introduced legislation and led workgroups aimed at slowing these trends. The General Assembly has several options for redesigning the relationship between CSA, private special education day school services, and public school services that would better serve students in the most cost effective and least restrictive environments necessary to meet their needs. Virginia should place greater priority on serving students in the least restrictive environment to meet its legal obligation to do so and provide value to the students.

## **Current funding structure limits school divisions’ incentive to serve children in public schools**

Virginia places a higher percentage of students with disabilities in more restrictive out-of-school settings than 37 other states, and Virginia’s out-of-school placement rate has increased over the past 10 years (sidebar). Federal law requires states to annually report the percentage of children with disabilities in out-of-school placements, which include students placed in separate schools, residential facilities, or homebound/hospital placements through the CSA program. The U.S. Department of Education sets out-of-school placement rate goals for each state—Virginia’s goal is to place 2.5 percent or fewer students with disabilities in out-of-school placements (Figure 3-1). Virginia places nearly twice as many students with disabilities in out-of-school placements than this goal.

The state’s policies for funding special education services create financial disincentives for school divisions to serve children with especially challenging behaviors in the public school setting. In Virginia, school divisions pay the local portion of special education services when students with disabilities are served in the public school setting, but local governments typically pay the local match for students placed in private day schools (sidebar). School divisions do not have to bear any of the cost of these costlier placements because they have no financial incentive to invest in resources that can better enable them to serve students with the most challenging behaviors.

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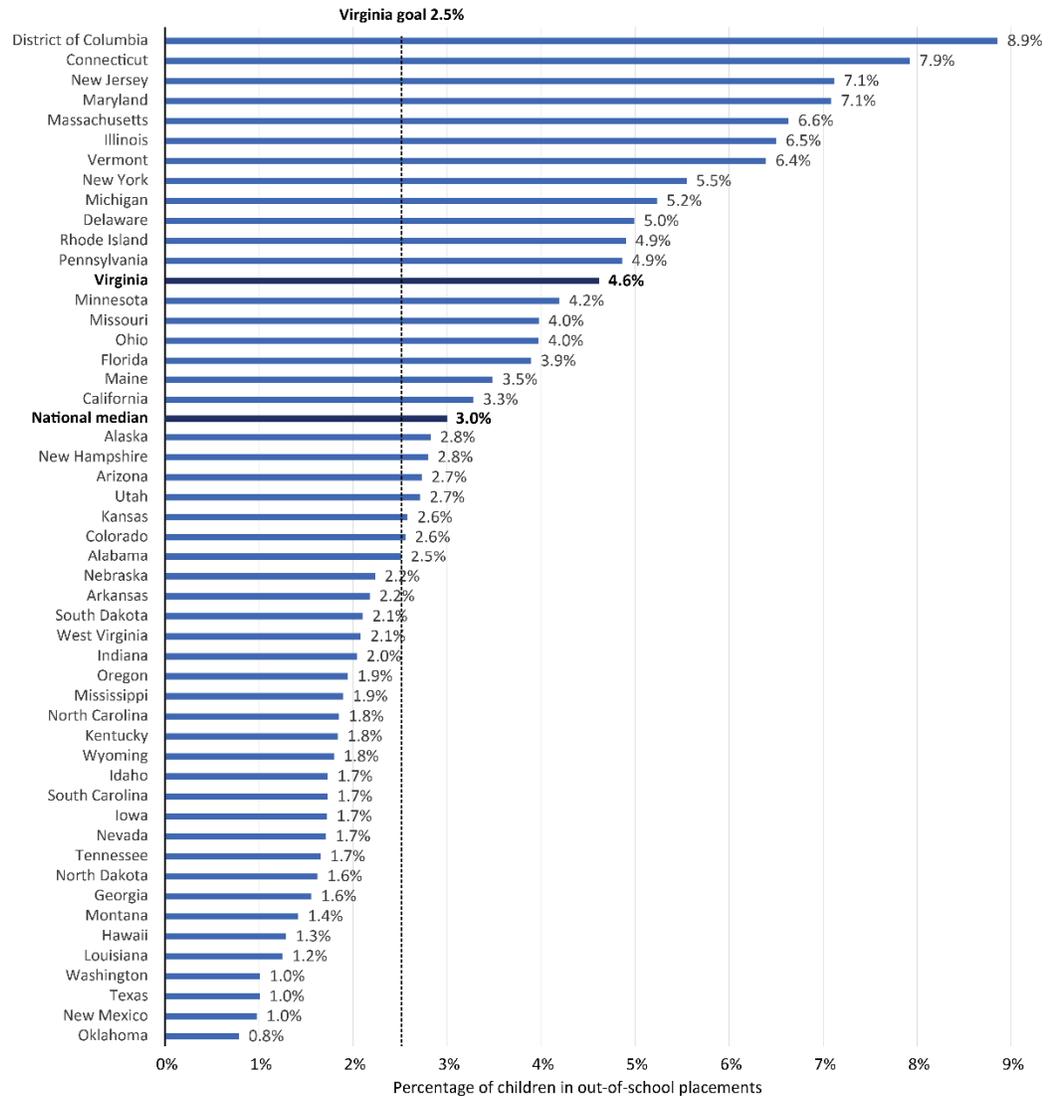
Federal law requires states to annually report the percentage of children with disabilities in **out-of-school placements**, which include students placed in separate schools (including private day schools), residential facilities, or homebound/hospital placements through the CSA program.

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Some localities require their school division to pay for all or a portion of the local portion of private day school tuition payments covered by CSA. Seventeen (17) CSA coordinators reported on the JLARC survey that their school divisions pay all or a portion of the local portion of private day school costs.

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**FIGURE 3-1**  
**Virginia places a higher percentage of special education students outside of their home school than 37 other states**



SOURCE: JLARC analysis of U.S. Department of Education IDEA Section 618 data on Indicator 5c.

State law and policy prohibits CSA money from being spent on public school services, which may be inconsistent with federal law. This policy prevents over \$100 million in state funding from being spent on services that could help maintain students in their public school. School divisions do have federal, state, and local funding to pay for services delivered within the public schools, but state and federal funding has declined. At the same time, the number of students receiving special education services and the severity of their needs have been increasing.

Federal law requires school divisions to provide a free and appropriate education (FAPE) to all students, and that education must be provided in the least restrictive

environment (LRE) based on the student’s needs. More specifically, federal law requires that

- “removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”
- “A state funding mechanism shall not result in placements that violate the [least restrictive environment requirements], and a state shall not use a funding mechanism by which the state distributes funds on the basis of the type of setting in which a child is served that will result in the failure to provide a child with a disability a free appropriate public education according to the unique needs of the child as described in the child’s IEP.”

Private day schools are considered one of the more restrictive placements because they are separate schools from public schools, and students have little to no access to their non-disabled peers. The prohibition on spending CSA dollars on services that could maintain a student in a potentially less restrictive environment *in a public school* leads to the placement of children in more restrictive, less inclusive settings.

### **Some children placed in private day school could be served in less restrictive settings**

When school districts do not have the appropriate resources to serve students with challenging behaviors, they may place these students in special education private day schools, even if the student has lower needs than most other students placed in that setting. Between FY17 and FY19, 350 children (10 percent) placed in private day schools did not have any moderate or severe needs ratings on three core modules (school, behavior, and risk) of the CANS assessment (sidebar). Children who do not demonstrate severe or moderate problems in school, behavior, or risk could likely be served in less restrictive school settings, such as their home public school.

School districts report that they place lower needs students in private day school because they lack appropriate resources to serve the students. In particular, school divisions without access to either a regional special education program or a separate public school for children with disabilities had higher private day school placement rates (Table 3-1). Most special education directors confirmed that the students placed in private day schools need the small class size, small school size, and low staff-to-student ratio private day schools provide. Regional special education programs and separate public schools for students with disabilities can provide these same features, which could explain why school divisions with access to these schools have lower private day placement rates than school divisions that do not (sidebar).

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The CSA program assesses children’s needs and strengths using a uniform assessment instrument called the **Child and Adolescent Needs and Strengths Assessment, or CANS**. Within six domains, children are assessed and scored on several elements. A moderate or severe needs rating indicates that the child has problems in this area that should be addressed through interventions.

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Some school districts, such as Fairfax County and Stafford County, operate **separate public special education schools** for children with certain disabilities. These schools typically offer programs and staffing levels similar to private day schools.

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Some school districts work together to establish **regional special education programs** that offer specialized programs that serve children with less common disabilities where there are not enough children in one division to create a classroom or program.

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**TABLE 3-1****School divisions have lower private day school placement rates when they have access to a regional program or separate public school**

| <b>Element</b>  | <b>Median private day placement rate</b> | <b>Number of school divisions</b> |
|---|--|-----------------------------------|
| Access to a regional special education program AND a separate school for students with disabilities                 | 1.3%                                     | 8                                 |
| Access to a regional special education program OR a separate school for students with disabilities                  | 2.4%                                     | 50                                |
| No access to a regional special education program AND no access to a separate school for students with disabilities | 4.2%                                     | 41                                |

SOURCE: JLARC survey of Virginia public school special education directors and JLARC analysis of private day school placement rates data.

NOTE: The survey had 99 school divisions respond to the question on types of resources available to students with challenging behaviors, and 31 school divisions did not respond to the survey or the specific question on the survey.

“*School systems struggle to provide the services needed, and if they were adequately funded would be able to educate these students in their home base school. It seems odd to pay private providers to do the work that should be provided by the public system if funding and support from DOE were available.*”

- CPMT chair

Parental consent can also influence a child’s service setting and may result in students with relatively lower needs being placed in private day school. Virginia requires parents to consent to any placement change for a student with an IEP, and so a parent can refuse to allow their student to transition from a private day school to a public school setting, even if the IEP team believes that a private day school is no longer the most appropriate placement for a student. A special education coordinator in one large Northern Virginia locality estimated that up to 10 percent of parents of children with students in private day school refuse to consent to a placement change for their child. While other special education personnel have cited cases where parents refuse to consent to a placement change, there is no comprehensive data to determine how frequently this occurs.

### **Inability to use CSA funds in public schools prevents timely transitions back to public school**

Some children have long stays in private day school and either take a long time to transition back to their public school or never transition back at all. Although the median stay in private day school is approximately two years, over 20 percent of children who are placed in private day school stay four years or longer. Some of these children with longer stays could potentially be transitioned back to the public school earlier if transition support services were more accessible.

Special education directors indicated that they frequently need to provide additional services to help private day school students successfully transition back to public schools. Transitioning students to the public school setting is costly for localities because they need to pay for transition services in addition to private day school tuition. For example, in many cases, a transition might begin by a student attending public school for just a few hours or classes per week and spending the rest of the time in the private day school. The student may also initially need a one-on-one aide

while they are in the public school. In this case, while the *CSA program* is paying for the private day school tuition, the *school* pays for the additional costs of transporting the student between the schools and the hours the one-on-one aide is required.

CSA cannot pay for transition services—like a one-on-one aide—if they take place in a public school setting. CSA can continue to pay for any partial-day or partial-week private day school tuition, but CSA cannot pay for any of the additional services required for a successful transition, such as additional transportation costs or one-on-one aides in the public school. Some localities used CSA funds for these purposes in the past, but these uses of CSA funds may have violated state law that stipulates “the child or youth requires placement for purposes of special education in approved private school educational programs” to be eligible for funding. In 2010, the Virginia Department of Education (VDOE) released superintendent’s memos that clarified the prohibition against using CSA funds for any services delivered to a student in a public school setting (sidebar).

Virginia could encourage transitions from private day school to public school settings by allowing public schools to use CSA funds to support transition services. Access to additional funding for transition services may help school districts transition more students from private day schools to public schools and transition students back earlier. A Code of Virginia change to allow CSA funds to be used for transition costs could include limits on the time CSA funds can be used for transition services and the total cost of the services. For example, the General Assembly could limit the time transition services can be used to six or 12 months and require that the cost of transition services not exceed the cost of private day school. Additionally, the statutory language could include definitions of transition services to ensure that funds are not used to pay for standard educational services that should be funded by the school division. (Use of CSA funds for standard educational services prompted the 2010 clarification of the prohibition on using CSA funds for services in public schools.)

### RECOMMENDATION 3

The General Assembly may wish to consider amending §2.2-5211 and §2.2-5212 of the Code of Virginia to allow state funds currently reserved for children requiring placement in a private special education day school to pay for services delivered in public schools to help transition students from residential or private day school placements back to a public school setting.

### Prohibition against using CSA funds in public schools incentivizes schools to place challenging students in private day schools

Funding private day school through CSA creates a financial disincentive for school divisions to develop necessary supports and services to serve children with challenging behaviors. School divisions do not pay for students’ services once they are placed in private day school, and CSA funds cannot be used to develop or pay for services delivered in the public school setting.

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VDOE uses superintendent’s memos to communicate policy and guidance to the state’s school divisions. VDOE released two memos, memo #018-10 in 2010 and memo #021-11 in 2011, which clarified that school divisions cannot use CSA funds for any services delivered to students who were served in a public school setting (in accordance with §2.2-5211 and §2.2-5212 of the Code of Virginia).

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“*Once a student is placed at a private day school, it is often difficult to return them to a public school, even when the student is ready. The ability to contract with a private provider in a public school classroom would be an important transition step.*”

- CPMT chair

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“*We would like to be able to once again to fund [therapeutic day treatment] services for students with IEPs in the public schools. That preventative service definitely helped keep some students in the public schools rather than having to be educated at a private day placement.*”

- CSA coordinator

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Serving children with challenging behaviors is expensive in any setting, and only 13 school divisions have built in-house programs that are alternatives to private day school placements. These programs typically look similar to programs offered by private day schools but are considered less restrictive because students may have access to their non-disabled peers through extracurricular activities or in other limited ways. For example, Stafford County operates two programs that serve students with challenging behaviors who would otherwise be placed in private day schools. Both programs have their own dedicated space, serve a small number of students, and have low student-to-staff ratios. These 13 school districts have a lower median private day placement rate (2.4 percent) than districts that did not report operating a separate school (3.7 percent).

The current funding model provides a disincentive for school divisions to invest in these types of programs. Even if a school division can serve a student in an alternative in-house program for less than the cost of a private day school, localities do not save money because the state provides less funding for special education than it does for private day school placements. The average Virginia school district receives \$9,800 in state and federal funding for every special education student. In comparison, the average Virginia locality receives \$36,000 in state funding for every private day student funded through CSA. One of Stafford County's alternative public school programs can provide services for 20 percent less than the cost of a comparable private day school program, but because of the CSA funding structure, the locality does not save any funds (Table 3-2).

**TABLE 3-2**

**Localities pay more to provide services similar to private day school, even when the total cost is lower**

This analysis shows "local funding" as one funding stream. However, in most localities, the local school district budget pays for special education services delivered in a public school setting. The localities' general fund budget typically pays for the local share of private day school tuition.

| <b>Scenario 1 – Private day and public alternative cost the same</b> | <b>Total cost</b> | <b>State funding</b> | <b>Local funding</b>  |
|--|-------------------|----------------------|-----------------------|
| Private day school   | \$54,000          | \$36,180             | \$17,820              |
| Public alternative   | \$54,000          | \$9,800              | \$44,200              |
| Difference   | \$0               | (\$26,380)           | \$26,380 <sup>a</sup> |

| <b>Scenario 2 – Public alternative costs 20 percent less than private day school</b> | <b>Total cost</b> | <b>State funding</b> | <b>Local funding</b> |
|--|-------------------|----------------------|----------------------|
| Private day school   | \$54,000          | \$36,180             | \$17,820             |
| Public alternative   | \$43,200          | \$9,800              | \$33,400             |
| Difference   | (\$10,800)        | (\$26,380)           | \$15,580             |

SOURCE: JLARC analysis of CSA local match rates and aid to public education.

NOTE: <sup>a</sup> Locality pays \$26,380 more to place a student in an alternative public school than it would to place a student in a private day school, even though the costs of both schools are the same. This is because state CSA dollars are available for the private day school placement but not the alternative public school placement.

Several states operate programs that provide additional state funding based on services delivered rather where these services occur. These states allow school districts to apply for additional funding to serve students whose needed special education services cost above a certain threshold. For example, North Carolina has a high-risk pool program that allows school districts to apply for additional funds when a student meets certain requirements (in terms of disability and severity of needs) and the services are expected to cost three times or more the cost of serving a general education student. Other states, such as Vermont, Wisconsin, and Texas, allow localities to apply for funding support when the cost of a special education student's services is expected to exceed a certain dollar amount, such as \$30,000. In these examples, additional state funding is available based on services needed for the student, regardless of where those services are delivered.

Virginia could ensure that school districts serve students in the least restrictive environment by tying state funds to services and supports, rather than placement. School divisions could be permitted to use CSA funds to provide enhanced services within public schools to students with especially challenging behaviors. School divisions could contract with private providers to deliver services and supports to students while they are in a public school setting, bringing services to them in the least restrictive environment. IEP teams will likely still determine that private day school is the most appropriate placement for many students, and school divisions could still be allowed to use CSA funds to pay for necessary private day school placements.

Criteria should be developed that must be met for these funds to be spent on services delivered in the public schools. Otherwise, school divisions may use these funds for students who do not require the level of intensive services needed to prevent an out-of-school placement. This would help ensure that school divisions are using CSA funds for the most challenging and expensive students and not for students whose education and service needs could otherwise be met using state and federal special education resources. Without requiring students to meet certain criteria in order to have their services and supports paid for by these funds, spending could increase at a faster rate than private day school spending has increased in recent years. The most objective criterion would be a dollar amount by which the anticipated cost of the services needed to maintain a student in public school and prevent a more restrictive placement would need to exceed. This is an approach used by some states. Using criteria that are tied to the severity and nature of the student's disability is another approach. For example, VDOE has developed criteria that children must meet in order to qualify for regional program services.

#### RECOMMENDATION 4

The General Assembly may wish to consider amending §2.2-5211 and §2.2-5212 of the Code of Virginia to allow the use of state funds currently reserved for children requiring placement in a private special education day school for services delivered to students with disabilities in public schools if the public school's individualized education program (IEP) team has determined that the services may prevent a more restrictive placement.

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State law does not explicitly direct VDOE to oversee IEPs and placement decisions, but federal law requires state education agencies to ensure that school divisions are meeting the federal program requirements for special education, which include ensuring eligible children with disabilities have an IEP that provides a free and appropriate education in the child's least restrictive environment (34 CFR 300.600).

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The 2018 Appropriations Act directed OCS and VDOE to convene a workgroup to identify and develop performance measures for private day schools. The workgroup recommended 10 measures. The 2020 Appropriation Act included language requiring VDOE to begin collecting and publishing data on measures the workgroup recommended in the 2020–21 school year.

Chapter 4 describes these outcome measurement efforts in more detail.

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#### **VDOE should administer funds for private day school services, consistent with its responsibility for overseeing and funding K–12 special education**

Approval and allocation of funding for private special education day schools should be transferred to the VDOE and the local school divisions. The decision to place children in private day schools is one of many special education placement decisions overseen by VDOE. However, private day school placements are the only special education service that is funded by an entity other than the VDOE (sidebar). The CSA program does not monitor or ensure the quality of private day schools, and new performance data monitoring requirements for private special education day schools will be undertaken by VDOE, not the Office of Children's Services (OCS) (sidebar). Furthermore, school district IEP teams make private day school placement decisions, and local CSA programs have no control over these decisions even though they pay for the services.

CSA coordinators and CPMT chairs generally believe that private day school services should not fall under the purview of the CSA program. CSA coordinators and CPMT chairs indicated that their CSA programs provide little value to children in private day school because they cannot influence the placement decision or decisions about whether children should transition back to public school. As a result, approximately 30 percent of localities exempt private day school cases from the FAPT planning process. Further, some CPMT chairs expressed frustration that county boards of supervisors and city councils frequently hold the CSA program responsible for the financial implications of private day school placements, but the CSA program does not make the placement decision and cannot legally change it.

Requiring the FAPT process for private day school students can create unnecessary burdens for students and families. Few private day school students receive any other CSA-funded service in addition to private day school, which is the one way in which the CSA program could provide value to these children since the CSA program cannot influence the private day school placement. Some parents indicated that after an IEP team has made the private day school placement decision, being required to participate in the FAPT team process feels like “red tape” and an unnecessary barrier to a service that is legally required to be provided.

Special education directors indicated that CSA program processes, such as completing CANS assessments and presenting private day cases to CPMTs, do not provide any

value for the child or the school division. By the time the CSA program becomes involved in private day school cases, the school division has already conducted extensive assessments, attempted to provide alternative services without success, and finalized the private day school placement decision in the IEP. The CSA program acts only as a funding source for private day school placements.

If the General Assembly shifts state funding for private day school to VDOE, it will need to decide whether to continue existing policies for state and local funding of private day school services, conform them to the funding policies in place for K–12 education, or create a new funding structure and process. This decision will affect the extent to which the funds continue to be reserved for students who are at-risk of or who are in an out-of-school placement. It will also impact local government finances. When making this decision, the General Assembly should ensure that the funds continue to be reserved for students with the most severe disabilities and that there is minimal negative impact on local government and school division finances.

There are two viable options for VDOE’s administration of private day school funding. One would be to incorporate it into the Regional Tuition Reimbursement Program. This program makes additional state funding available to school divisions that partner to offer specialized programs for children with less common disabilities. Because the program’s funds are reserved for localities that partner, not all school districts could access the funds under its current structure. Additionally, the regional program is only available to students with certain disabilities. Finally, local match rates for the Regional Tuition Reimbursement Program are calculated using the composite index, which differs from the CSA program’s match rates. Using the composite index could result in higher costs for many localities.

VDOE’s other option would be to establish a stand-alone funding pool that can be used exclusively for students with the most severe disabilities who are at-risk of or in an out-of-school placement. This funding model would give VDOE flexibility to establish local match rates and ensure that these funds are equally accessible to all school divisions. The funds could be made available to school divisions on a student-specific basis, similar to how CSA private day funds are used now. VDOE would issue funds to school divisions for students who qualify, rather than having funding flow from OCS and the CSA program.

Incorporating private day school funding into the special education program—which would mean simply transferring a portion of the funds to each school division’s total budget—is not a viable option. Doing so would *not* allow the funds to be used exclusively for students with the most severe disabilities who are at-risk of or in an out-of-school placement.

There are other decisions to be made for how private day school funding would be administered by VDOE. The General Assembly would need to determine whether the CSA match rates should apply to these funds, the composite index should apply, or another state-local funding arrangement should be created. If the composite index is

“  
...in most cases, FAPT  
was rubber stamping  
private day cases  
because they had no  
authority to critically  
examine services.  
”

CSA has no input into the  
IEP determinations, but  
is responsible for  
funding the decision  
made by a team of  
people outside the CSA  
process.

— CSA coordinators

used instead of the CSA matching rates for private day school placements, localities would be responsible for almost \$12 million in addition funding, based on FY19 spending. If local payments had been calculated using the composite index in 2019, approximately two-thirds of localities would have paid more for these services than they did using the CSA match rates; one-third would have paid less.

Additionally, CSA funds for private day school placements are currently available on a sum-sufficient basis, meaning that if a child requires services, funds are provided regardless of how much the state appropriated. The General Assembly will need to determine whether the funds will still be available on a sum-sufficient basis. If they are not provided on a sum-sufficient basis, it is possible that some children who require services will not receive them because of budgetary constraints.

Careful consideration should be given to the advantages and disadvantages of incorporating the private day school funding into the Regional Tuition Reimbursement Program versus establishing a stand-alone funding source. VDOE should evaluate these two options, and determine which one best accomplishes the goals of ensuring access to services for children with the most intensive needs, allowing all localities equal access to the funds, and minimizing the financial impact on localities. VDOE should develop a detailed plan that describes the pros and cons of each option, the option it determines will best accomplish the goals, and the details of how the agency will administer the funds.

CSA funds should be transitioned to VDOE's special education program *after* VDOE has developed a detailed plan to fund services for children with disabilities who are at-risk of or require private day school placements. When developing the plan, which would require approval by the General Assembly, the VDOE should consider how the new funding model would affect students, school divisions, service providers, and local government budgets.

#### **RECOMMENDATION 5**

The General Assembly may wish to consider including language in the Appropriation Act, and amending the Code of Virginia as appropriate, to direct the transfer of funds currently reserved for children requiring an educational placement in a private special education day school or residential facility to the Virginia Department of Education (VDOE) effective July 1, 2022. The language should also direct the VDOE to develop a detailed plan to administer this funding that (i) funds services for students with the most severe disabilities who are at-risk of or in an out-of-school placement; (ii) ensures that funds are equally accessible to all school divisions; and (iii) minimizes the fiscal impact of the new funding policy on localities. VDOE could be required to submit its plan and recommendations to the House Appropriations and Senate Finance and Appropriations committees for approval by November 1, 2021.

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Implementing Recommendations 3 and 4 *only* would maintain private special education day school funding with the CSA program, but would still result in a major shift in

funding policy for special education services in Virginia. Funds that have previously been restricted to services delivered in private school settings could be spent on services to help keep students with disabilities in public schools or transition students back from private day schools. If the General Assembly implements Recommendation 5, the intent of Recommendations 3 and 4 would also be fulfilled as long as the General Assembly clarifies that these funds *can* be spent on services to transition students out of private day school (the intent of Recommendation 3) and on services in the public schools for those students with the most severe needs (the intent of Recommendation 4).

## **FAPT teams should review private day school cases only when the child can benefit from other services**

The CSA program's FAPT process has the potential to identify additional services that may benefit private day school students outside of school. However, most private day school students do not receive other CSA-funded services, and FAPT team members have no input on private day school placement decisions. Between 2017 and 2019, only 23 percent of children enrolled in private day school received other CSA-funded services. Therefore, requiring the FAPT process for these children is usually a waste of time and resources for students, families, and FAPT team members. Still, because some private day school students benefit from receiving other CSA-funded services, there should be a mechanism to access those services regardless of whether VDOE pays for and oversees private day school placements or these functions remain at OCS.

To limit the number of children who unnecessarily go through FAPT, IEP teams could assess each student to determine whether he or she could benefit from a referral to FAPT to receive CSA-funded services *in addition to* private day school or to receive CSA-funded services that could prevent private day school placement. Whether the child's case is heard by FAPT would be up to the IEP team and not the CSA program.

### **RECOMMENDATION 6**

The General Assembly may wish to consider amending §22.1-217 of the Code of Virginia to require the Virginia Department of Education (VDOE) to direct that individualized education program (IEP) teams (i) identify any children with disabilities who may need additional services outside of the school setting and (ii) refer them to the local family assessment and planning team.

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# 4 Performance and Operational Standards for Private Day Schools

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Despite the high cost of private day school, little is known about the quality of private day schools. Many state and local stakeholders indicate that they do not know whether the public funds spent on private day schools are paying for high-quality services or producing positive student outcomes. The state will begin to collect performance data on private day schools in 2021, which will improve transparency and accountability. However, private day schools are not yet held to the same performance standards as public schools despite their responsibility for educating and serving some of Virginia’s most challenging students with disabilities.

## Some private day schools are not licensed or accredited

The Code of Virginia requires that schools for students with disabilities be licensed by the Board of Education (sidebar) to receive public funds, but this requirement is not always followed. In 2019, at least 12 CSA students were enrolled in three private day schools not licensed by VDOE. That year, the state and localities paid these unlicensed private day schools approximately \$500,000 in CSA funds. If a student’s IEP explicitly states that the only placement that can provide a free and appropriate education (FAPE) is a specific private day school—and that school is not licensed—the CSA program would pay for the student’s tuition at that school. Typically, though, IEPs will place a child in private day school generically, and the school division and parent choose a school that can serve the student. CSA only pays for tuition in unlicensed schools if these schools are specifically named in an IEP.

Licensure ensures that private day schools meet a base level of quality, as defined in the licensing regulations (sidebar). Private day schools are required to submit an application to VDOE to obtain a license to operate. Then, VDOE staff conduct unannounced on-site monitoring visits before schools opens, at least twice within the first year after schools first open, and at least once every three years thereafter. Additional visits may occur if a school makes major changes to its program or VDOE staff finds substantial compliance issues. During an on-site visit, VDOE staff typically interview school administrators and a sample of teachers, support staff, students, and parents. VDOE staff also typically observe several classrooms. Items reviewed by VDOE staff during their on-site visits include:

- staff files to ensure staff meet relevant licensing regulations and have undergone required background checks;
- student records;

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**Licensure for private schools** that serve students with disabilities ensures that schools meet certain standards, including standards on instructional quality, policies and procedures for the use of restraint and seclusion, personnel quality, fiscal accountability, insurance, and school operations.

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Private day school licensing is conducted by **VDOE’s Office of Specialized Education Facilities and Family Engagement**. VDOE has two full-time employees and one part-time employee dedicated to private day school licensing.

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- professional development plans and records;
- physical facility safety, security, and cleanliness;
- emergency drill plans and records;
- medication storage, policies, and records;
- policies and location used for time-out;
- location used for seclusion;
- policies and records on the use of restraint and seclusion; and
- instructional program.

The General Assembly should ensure that all private special education day schools receiving state funding meet the licensure standards by prohibiting the use of state funds for schools that are not licensed by VDOE. An exception to this policy could be made for private day schools in neighboring states that are licensed by their respective state departments of education, but the licensure status of these schools should be verified prior to allowing the state to pay for services at these schools. The licensure standards provide school divisions, parents, and students with some assurance that a private day school meets a base level standard for the school's instructional quality, personnel quality, and operations.

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In 2019, at least 70 students were enrolled in 10 private day schools in neighboring states, costing \$4 million in state and local CSA funds.

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#### RECOMMENDATION 7

The General Assembly may wish to consider amending §2.2-5211 of the Code of Virginia to prohibit the use of state funds for any private day school tuition payments to schools that are not licensed by the Virginia Department of Education (VDOE), or in the case of out-of-state schools, the respective state's licensing agency.

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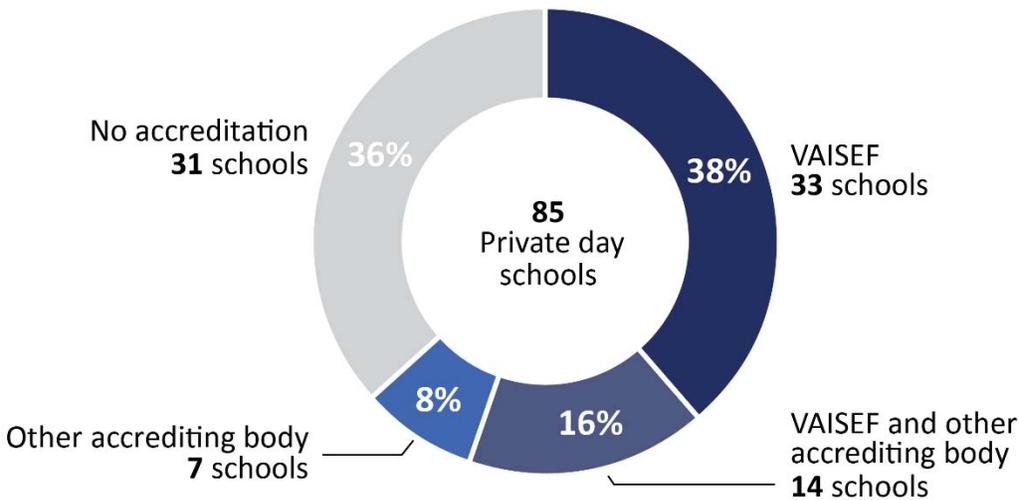
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**Accreditation standards** review many of the same elements reviewed by the VDOE for licensing, but the accreditation reviews may be more in-depth and provide schools with technical assistance and improvement plans that go beyond regulatory compliance.

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Accreditation provides an additional review of a private day school's quality, but over one-third of private day school campuses in Virginia have not attained any accreditation. Accreditation is the recognition by a third-party entity that a school maintains certain educational standards. The Virginia Association of Independent Specialized Education Facilities (VAISEF) is the designated accrediting body for Virginia private day schools and accredits 39 percent (33) of Virginia's private day schools. Some Virginia private day schools have obtained accreditation from other national accrediting bodies, such as the Southeastern Association of Colleges and Schools (SACS) or Cognia, instead of or in addition to VAISEF. Other national accrediting bodies accredit 25 percent (21) of Virginia's private day schools. The remaining 36 percent (31) of private day schools have not obtained any sort of accreditation (Figure 4-1).

**FIGURE 4-1**  
**Over one-third of private day schools are not accredited**



Source: VDOE Directory of Licensed Private Day Schools; VAISEF Directory of Members.

## **Academic performance of students in private day schools is comparable students in other out-of-school placements, and behaviors appear to improve**

Private day school students perform about as well on SOL tests as students in other out-of-school placements (Table 4-1). Special education students who remained in their public school performed significantly better on SOL tests than students with similar disabilities placed in private day schools, but data limitations prevent an accurate comparison of these two groups (sidebar). Subject matter experts at VDOE indicated that children with similar disabilities who are not placed in private day schools likely have less severe needs than children who are placed in private day schools, which could explain the higher performance of public school students.

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**It is difficult to select a comparison group of children who have a similar level of needs to children placed in private day school** because children who are not placed in private day school do not have a CANS score. For this analysis, students placed in private day school were compared to students with similar disabilities in other settings.

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**TABLE 4-1**  
**Private day students perform at similar levels on math and reading assessments as other students in out-of-school placements**

|                               | <b>Percentage pass<br/>Reading</b> | <b>Percentage pass<br/>Math</b> |
|-------------------------------|------------------------------------|---------------------------------|
| Private day school            | 30%                                | 19%                             |
| Other out-of-school placement | 33%                                | 18%                             |
| Public school                 | 52%                                | 45%                             |

SOURCE: JLARC analysis of DOE graduation data.

Note: Pass rates are aggregate for students in third through eighth grade who had a disability designation of emotional disability, autism, or other health impairment. Non-private day school students were included only if they were placed in a special education setting for their disability for 100 percent of their school day.

Private day schools appear to graduate their students at slightly higher rates than public schools, but they also have a higher percentage of students drop out of school than public schools. Approximately 30 percent of students who were enrolled in a private day school at any point in high school will graduate with a diploma, which is higher than the percentage of students with similar disabilities who were placed in a public school setting for their high school education (Table 4-2). However, private day schools also appear to have a higher percentage, 20 percent, of students who drop out versus public schools, 14 percent. An accurate comparison of academic performance between public and private day school students is not possible without a standardized behavioral assessment performed on all Virginia students with disabilities that could be used to control for differences in severity of disability.

**TABLE 4-2**  
**Private day students graduate or complete high school at similar rates to other similar students**

|                               | <b>Graduate</b> | <b>Dropout</b> |
|-------------------------------|-----------------|----------------|
| Private day school            | 30%             | 20%            |
| Other out-of-school placement | 29%             | 31%            |
| Public school                 | 24%             | 14%            |

SOURCE: JLARC analysis of DOE graduation data.

NOTE: Percentages represent the percentage of students who graduated or dropped out at the end of six years after they first entered ninth grade. Remaining students either received an applied studies diploma, GED, or were still enrolled in school at the end of six years after first entering ninth grade. Students were included in the private day school group if they were enrolled in private day school at any point in the ninth through 12<sup>th</sup> grade, and they had a disability designation of autism, emotional disability, or other health impairment. Students were included in the other out-of-school placement or public school group if they were never served in a private day school in ninth through 12<sup>th</sup> grade, they had a disability designation of autism, emotional disability, or other health impairment, and they were placed in a special education setting for their disability for 100 percent of their school day.

Private day school is associated with improved behaviors in children who are enrolled for at least six months. Children who attended private day school for at least six months improved their school behavior, school achievement, and school attendance

scores between their initial CANS assessment and their re-assessment at least six months later (sidebar). Additionally, private day school attendance was associated with improved scores in the child behavior and child risk domains of the CANS assessment for those children that attended private day school for at least six months.

## Private day school outcome data to be published in 2021 is less comprehensive than public school data

Unlike public schools, data has not been consistently published on outcomes for students who attend Virginia’s private day schools. While the private day school accreditation process reviews a variety of aspects of private day schools’ educational quality and school operations, it primarily relies on observations and subjective assessments to make determinations about school quality. As a result, stakeholders and parents of private day school students do not have information on the same basic metrics for private day schools that are reported for every public school in the Commonwealth.

VDOE will begin to publish data on private day schools for the 2020–21 school year, but this data will not be as comprehensive as that provided for public schools (sidebar). VDOE will collect and publish data on four measures that are specific to private day schools: progress relative to IEP goals, percentage of students that return to a public school setting, parent satisfaction, and student perspective (Table 4-3). However, important data that is reported for public schools on teacher quality, school accreditation status, and career and technical education will not be collected or published for private day schools. Additionally, the Appropriation Act did not direct VDOE to collect and publish data on incidences of restraint and seclusion. Some of this excluded data could help IEP teams and parents better understand the differences among private day schools and make better informed placement decisions.

### RECOMMENDATION 8

The General Assembly may wish to consider including language in the Appropriation Act directing VDOE to collect and publish the following data on each private day school annually: (i) number of teachers not fully endorsed in content they are teaching (“out-of-field”); (ii) number of teachers with less than one year of classroom experience; (iii) number of provisionally licensed teachers; (iv) educational attainment of each teacher; (v) number of career and technical education (CTE) credentials earned by students; (vi) accreditation status; and (vii) number of incidences of restraint and seclusion.

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The CSA program assesses children using a uniform assessment instrument called the **Child and Adolescent Needs and Strengths Assessment, or CANS**. Children are assessed and scored within six domains (school, child behavior, child risk, child strength, life functioning, parent strengths and needs) on several elements.

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The 2018 Appropriation Act directed OCS and VDOE to convene a workgroup to identify and develop performance measures for private day schools. The workgroup recommended 10 measures. The 2020 Appropriation Act included language requiring VDOE to begin collecting and publishing data on nine of the 10 measures the workgroup recommended.

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TABLE 4-3

Data reported for private day schools is not as comprehensive as data reported for public schools

| Data   | Public schools | Private day schools |
|--|----------------|---------------------|
| <b>School climate</b>  |                |                     |
| Enrollment by grade level  | ✓              |                     |
| Attendance rates/chronic absenteeism rates                                 | ✓              | ✓                   |
| Suspension and expulsion rates   | ✓              | ✓                   |
| Free and reduced lunch/breakfast participation rates                       | ✓              |                     |
| Serious disciplinary offenses  | ✓              |                     |
| Restraint and seclusion <sup>a b</sup>                                     |                |                     |
| Per pupil spending   | ✓              |                     |
| Parent satisfaction and student perspective                                |                | ✓                   |
| <b>Educational quality</b>   |                |                     |
| Accreditation status   | ✓              |                     |
| Participation and proficiency on standard academic assessments (SOL tests) | ✓              | ✓                   |
| Progress on standard academic assessments                                  | ✓              |                     |
| Progress relative to IEP   |                | ✓                   |
| Return to public school setting rate                                       |                | ✓                   |
| <b>College and career readiness</b>  |                |                     |
| Diplomas and completion rates  | ✓              | ✓                   |
| Four-year graduation rate  | ✓              |                     |
| Advanced program enrollment  | ✓              |                     |
| Postsecondary enrollment   | ✓              | ✓                   |
| Career and technical education (CTE) credentials earned                    | ✓              |                     |
| <b>Teacher quality</b>   |                |                     |
| Inexperienced teachers (less than 1 year experience teaching)              | ✓              |                     |
| Out-of-field teachers (not fully endorsed in content)                      | ✓              |                     |
| Provisionally licensed teachers  | ✓              |                     |
| Teacher educational attainment   | ✓              |                     |
| <b>Special education specific</b>  |                |                     |
| Positive social-emotional skills   | ✓ <sup>c</sup> | ✓                   |
| Acquisition and use of knowledge and skills                                | ✓ <sup>c</sup> |                     |
| Use of appropriate behavior to meet needs                                  | ✓ <sup>c</sup> |                     |
| Parent involvement   | ✓              |                     |
| IEPs address contain postsecondary goals and transition                    | ✓              |                     |

SOURCE: Virginia Department of Education's School Quality Profiles; Virginia State Performance Plan and Annual Performance Report; Report on Private Day Special Education Outcomes, November 1, 2018; HB 30, 2020 General Assembly Session, Item 138 (G).

NOTE: <sup>a</sup> Restraint and seclusion data is publicly reported for public schools, but the data is not as readily accessible as other data provided through the School Quality Profiles. <sup>b</sup> The workgroup recommended collecting and publishing data on the incidences of seclusion and restraint, but the 2020 Appropriation Act language did not include restraint and seclusion as one of the data points to be collected and published. <sup>c</sup> These three measures are reported for public school divisions for preschools only.

## Private day schools are not required to document and review incidents of restraint or seclusion to the same extent as public schools

Restraint and seclusion techniques are difficult to implement correctly. Restraint and seclusion are emergency management techniques that may be used when a child's behavior poses an imminent danger of serious physical harm to the child or others (sidebar). These techniques can have a range of negative impacts on children, and their use is discouraged by the U.S. Department of Education. Federal and state law allow their limited use in emergency situations.

State regulations on the use of restraint and seclusion in public schools are more comprehensive and detailed than similar state regulations governing the use of restraint and seclusion in private day schools (sidebar). Both sets of regulations appear to conform to the 15 restraint and seclusion principles that the U.S. Department of Education has encouraged states and schools to implement. However, the regulations that apply to public schools require more documentation of restraint and seclusion incidents, and they require more engagement and planning to prevent future incidents.

Public schools are required to document more information about restraint and seclusion incidents than private day schools. Both sets of regulations require that the schools document much of the same information following a restraint or seclusion incident. However, public schools must provide additional elements to be included in restraint and seclusion incident reports that are not required for private day schools, including:

- documentation that school personnel involved completed advanced restraint and seclusion training;
- whether the student, school personnel, or others sustained any bodily injury;
- the date and time when a nurse or other emergency response personnel were notified of the injury and treated the injury;
- the date, time, and method of parental notification; and
- the date, time, and method of a debriefing of the school personnel involved.

Public schools are also required to do more structured debriefings after restraint and seclusion incidents have occurred. When an incident of restraint or seclusion occurs in a public school, the principal is required to conduct a formal debriefing with the staff involved within two days. Additionally, the public school principal is required to review the incident with the student within two days of the student's return to school. The regulations for private day schools do not require either of these post-incident reviews.

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**Restraint** is any action that restricts children's freedom of movement or physical activity to prevent students from moving their bodies to engage in behavior that puts themselves or others at risk of physical harm. Mechanical and pharmacological restraints are forbidden in all Virginia schools, public and private day. Certain physical restraints are permitted in Virginia schools under certain circumstances.

**Seclusion** is the confinement of a student alone in a room from which the student is physically prevented from leaving.

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Legislation enacted in 2015 and 2019 required VDOE to develop and promulgate **regulations on use of restraint and seclusion in public schools**. These regulations, 8VAC20-750, were recently finalized and will become effective January 1, 2021.

Regulations on the use of restraint and seclusion in private day schools, 8VAC20-671, are **currently in effect**.

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Public schools are required to re-convene the student's IEP team after the second restraint or seclusion incident in a school year, but private day school regulations require a review only if there is "repeated use for an individual child." Public school regulations require that after the second day in a school year where restraint or seclusion is used for a child, that child's IEP team should reconvene and consider the need for a functional behavior analysis, a new or revised behavior intervention plan, new or revised behavior goals, and any new or revised evaluations. If the child does not have an IEP, the public school is required to convene a team of professionals to consider the same list. The private day school regulations do not stipulate when a review is to be conducted, who should be involved in the review, or what the review should consider.

Virginia should require private day schools to meet the same requirements on restraint and seclusion as public schools. Most students placed in private day schools are funded through CSA, a public source, and local school districts remain responsible for the students they have placed in private day schools. Given the negative impact that restraint and seclusion can have on students, the state should do more to ensure that private day schools minimize their use. Private day schools should be required to document more details about use of restraint and seclusion, engage in more structured reviews of restraint or seclusion incidents, and make structured plans to avoid future restraint and seclusion use for students that have been involved in two incidents in a year.

#### **RECOMMENDATION 9**

The General Assembly may wish to consider including language in the Appropriation Act directing the Virginia Board of Education to develop and promulgate new regulations for private day schools on restraint and seclusion that establish the same requirements for restraint and seclusion as those established for public schools.

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# 5 Local CSA Program Effectiveness

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Most children who receive CSA-funded services have their needs assessed and service plans developed by an interdisciplinary team of staff from multiple local agencies called the Family Assessment and Planning Team (FAPT) (sidebar). Reliance on the FAPT is consistent with a systems of care approach for services, which emphasizes coordination of service providers and partnerships with families to address children's needs. Research literature has demonstrated that the systems of care approach leads to positive child welfare outcomes. For the CSA program to be effective in serving at-risk children, the program must effectively assess children's needs, arrange for appropriate services that are readily accessible and of good quality, and serve as many children as possible.

## **Majority of children's social, emotional, and behavioral challenges appear to lessen while they are in CSA**

Case managers report that a majority of CSA children on their caseloads have shown improvement. Almost 90 percent of case managers said at least some of the children on their caseload have made good progress toward their goals in the last year, with 60 percent reporting that the majority of children have done so. In particular, case managers for youth who are categorized as a "CHINS," or Child in Need of Services, said that children on their caseloads are improving. Sixty-eight percent of CHINS case managers said that they saw improvements in a majority of their CSA cases during the last 12 months. Case managers provided many examples of children's behavior and well-being improving over time in CSA, including examples from children across different eligibility categories and circumstances (case studies 5-1 and 5-2).

### **CASE STUDY 5-1**

A child came to her local CSA program because of serious anxiety that made social interaction, and even leaving the house, extremely difficult for her. FAPT recommended therapeutic mentoring, a service in which the child works one-on-one with a trained mentor on socialization, communication, life skills, and self-care. Her case manager said that she has "made leaps and bounds" and now participates in social situations, looks forward to spending time outside with her family, actively uses coping skills to deal with her anxiety, and has improved her social skills.

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**Family Assessment and Planning Teams (FAPTs)** are required to include representatives from local agencies, including the community services board, the juvenile court service unit, the local department of social services, the local school division, and a parent representative. The child's case manager must also attend all FAPT meetings.

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A child is considered a **Child in Need of Services (CHINS)** under Virginia law when they have persistent emotional or behavioral issues that threaten their well-being or the well-being of others, and put them at risk of being placed in a living situation outside their home, like foster care or residential treatment. Service planning through CSA helps prevent the need for an out-of-home placement, or reduce the amount of time a child has to be away from home.

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## CASE STUDY 5-2

A child came to his local CSA program after being admitted to a residential treatment center for significant behavioral and emotional issues. FAPT helped plan his transition back into the community by finding outpatient and community-based services to support him. FAPT also realized that his brother needed services and qualified for CSA, and that their parents could benefit from parent coaching. All of these services were available through CSA, and the family has stayed intact while both boys continue to do well.

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JLARC conducted a survey of CSA case managers in July 2020 to gather case managers' perspectives on the CSA program. A total of 260 CSA case managers from 79 localities responded to the survey. These localities represent 61 percent of children served by CSA in FY19. See Appendix B for additional information about the survey.

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The CANS assessment has several categories called "domains" that are used to assess children's needs in a variety of areas. JLARC used the three domains identified in Table 5-1 for this analysis of children who received CSA services for at least one calendar year between FY17 and FY19. Higher CANS scores indicate more severe behaviors. Declining scores indicate improvement, whereas increasing scores indicate worsened behavior.

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Some children in the CSA program may not benefit from the FAPT process and CSA-funded services. Four percent of case managers said that most of the CSA children on their caseload had not made progress toward their goals in the last year. However, these case managers reported relatively small caseloads (from one to seven), and most other case managers from the same localities generally reported at least half of their cases made progress in the last year.

Case managers, including those who reported that a majority of children on their caseload are progressing, frequently attributed a lack of progress to parents not participating in the FAPT process. In most cases, however, local CSA programs appear to effectively encourage and facilitate parental involvement—93 percent of case managers reported that their CSA program effectively encourages parent involvement in the FAPT process. Less than 5 percent of case managers reported that parent work schedules, English proficiency, or transportation are barriers to parents participating in FAPT for a majority of their cases. When these barriers do exist, case managers say the program adequately addresses them.

CSA has positive effects for children receiving community-based services, but effects for children in residential services are mixed. On average, children who receive community-based services, like outpatient counseling or therapeutic mentoring, show improvements in behavior, school attendance, and emotional issues over time, based on improved CANS scores in these domains (sidebar). However, on average, children in residential services generally have worse CANS scores over time, suggesting that the services are not effective in many cases. In particular, children in community-based services through CSA improved most related to potentially dangerous behaviors like self-harm, running away, and bullying, but children receiving residential services had significantly worse scores related to these behaviors (Table 5-1).

**TABLE 5-1**  
**Children receiving community-based services were more likely to have improved behaviors than children receiving residential services**

| <b>CANS domain</b>  | <b>Average change in CANS scores</b> |                             |
|---|--------------------------------------|-----------------------------|
|   | <b>Community-based services</b>      | <b>Residential services</b> |
| <b>School</b><br>(Behavior, attendance, and achievement in school)  | -6%                                  | -3%                         |
| <b>Child behavior</b><br>(Emotional issues like depression, anxiety, anger control, and attention deficit/hyperactivity disorder) | -3%                                  | +6%                         |
| <b>Child risk</b><br>(Behaviors like running away, self-harm, aggression toward others, illegal activity, and bullying)           | -8%                                  | +17%                        |

SOURCE: JLARC analysis of CANS and LEDRS data.

The CANS scores changes suggest that CSA benefits children receiving community-based services, but not children in residential services, who made up 11 percent of all CSA children served in FY19. However, a significant amount of information about CSA children is not available. For instance, data shows that children in residential services start out with overall higher CANS scores, meaning their needs are more severe than children who never have a residential placement. Without additional information about other factors that can affect children, such as their mental health diagnoses, parental involvement with treatment, or socio-economic status, it is difficult to conclusively assess children's outcomes. Local CSA programs report that each of these factors can affect a child's success regardless of the quality of CSA services.

In its 2018 report on improving foster care in Virginia, JLARC staff made two recommendations related to residential services for children (called "congregate care" in the report). JLARC staff recommended that the General Assembly direct the Virginia Department of Social Services (VDSS) to immediately review the cases of all children in residential services. VDSS would then direct local departments to find a family foster home placement as soon as possible for any children who do not have a clinical need to be in residential care. JLARC staff also recommended that VDSS be required to review the cases of all children in residential services at least annually and for children who do not need residential services, require the local social services department to pay for the child's residential services if it has not made an appropriate effort to find the child a placement in a family foster home. Both of these recommendations were implemented.

## **CSA service planning is generally beneficial but delays the start of services in some cases**

When a child is referred to CSA, the CSA coordinator schedules an initial meeting of the FAPT to determine CSA eligibility and develop an Individual and Family Service Plan (IFSP) to address the child's and family's needs. At the FAPT meeting, representatives from different agencies are expected to provide ideas and recommendations for services that augment those proposed by the child's case manager. The expertise of the different FAPT representatives, and their awareness of service providers and service delivery techniques, is intended to be utilized to comprehensively assess children's needs and connect children to the most relevant and effective services available.

### **CSA service planning benefits most children**

Many case managers believe the FAPT process allows them to better serve children than they could on their own for some cases. Sixty percent of case managers responding to JLARC's case manager survey reported that FAPT adds value beyond their own contributions for half or more of their CSA cases. Consulting with other professionals is one of the greatest benefits of FAPT, according to CSA case managers, and through this process they often learn about other services they were not aware of. By providing case managers with more information about available services, FAPT can improve service planning to better address children's needs and help avoid more disruptive placements in residential services. FAPT also provides children an opportunity to participate in planning their own services when appropriate (Case Study 5-3).

### **CASE STUDY 5-3**

A FAPT team met to review the case of a youth nearing age 18 who was released from an inpatient psychiatric facility a few months earlier. The youth wanted to continue independent living services after a group home placement did not work out. The child proposed a schedule for independent living services that would allow her to work and continue to study for her GED. She also requested help with transportation. Her mother asked FAPT for some parental support, explaining that she was struggling to afford her expenses while working several jobs and living in a motel. After some discussion, FAPT said CSA could not pay for the mother's services, but they said they would find another agency to help her. At the end of the FAPT meeting, FAPT voted to approve the youth's plan for independent living services and transportation assistance. The CSA coordinator then forwarded the plan to the CPMT for final approval.

FAPT is particularly valuable for children designated a CHINS, because without CSA and the FAPT process, they would likely not have a case manager to help with their service planning. These children have issues like severe depression or anxiety that seriously affect their home and school lives. Children who are designated a CHINS do

not typically have case managers because they are not eligible for case management from another agency. For example, a child who experiences abuse or neglect would have a case manager from DSS, but a CHINS child would not have a case manager unless they were receiving services through CSA. CHINS children appear to uniquely benefit from the CSA program, and OCS should ensure that CHINS criteria are being applied broadly and consistently across local CSA programs.

However, 40 percent of case managers reported that FAPT meetings improve service plans for fewer than half of their cases. Case managers reported that they often develop service plans that do not require any changes by the FAPT team. In addition, sometimes service gaps prevent FAPT teams from offering children additional services beyond those the case manager has proposed. Foster care case managers (who appear to find FAPT less valuable than other case managers) reported overlap between FAPT and the family partnership meeting required for children in foster care.

When CSA coordinators were asked for their perspective on the contributions of FAPT, only 19 percent reported that, for a majority of cases, FAPT recommended additional services beyond the case manager's plans in the past year. Like case managers, CSA coordinators attributed this to case managers often providing comprehensive service plans that do not need changes and also to the lack of service options in their areas. Expanding the availability of high-quality services likely would give FAPTs more opportunities to add value to children's service plans by suggesting additional or different services for children.

### Timing of FAPT and CPMT meetings can delay children starting services

Some children wait weeks to begin receiving services after they are found eligible for CSA services, in part because of varying local policies regarding the frequency of FAPT meetings. Forty-three percent of case managers reported that FAPT can delay children being placed in services, typically because children have to wait for regularly scheduled FAPT meetings. The majority of localities reported having FAPT meetings once or twice per month, while others have multiple days of FAPT meetings per week, depending on how many children the CSA program serves and local administrative resources.

Case managers for CSA children who also have non-CSA cases confirmed that services take longer to start in some CSA cases than non-CSA cases. Many CSA coordinators reported that children's services could be planned (47 percent) and started (38 percent) more quickly. Coordinators attributed delays to the requirement that services cannot begin until the local CSA governing body—the Community Planning and Management Team (CPMT)—has approved a child's service plan.

Based on local programs' estimates of the time between a child's referral to CSA and the start of services, children in 22 percent of localities did not begin services for more than a month after their referral to CSA. Fifteen percent of CSA children reside in these localities. Both case managers and CSA coordinators gave examples of times when a child's FAPT meeting happened just after the locality's regularly scheduled

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**JLARC conducted a survey** of CSA coordinators in June 2020 to gather coordinators' perspectives on the functioning of local programs. More than 90 percent of coordinators representing about 90 percent of children served by CSA responded to the survey. See Appendix B for additional information about the survey.

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“ *Families need services immediately, and from a very rural locality who has FAPT and CPMT once monthly, the provision of these services is often delayed.*

*CPMT meets once per month so if a FAPT meeting is held the first part of the month services will not start until the 1st of the next month. I believe we need to have a more streamlined process to begin services sooner.*

”  
- CSA coordinators

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CPMT meeting, so the child had to wait until the next scheduled CPMT meeting—which could be up to a month—before they started services.

OCS has encouraged local CSA programs to implement policies that allow them to provide services before the FAPT or CPMT processes to children in need of emergency services. However, all children may benefit from receiving needed services as early as possible, even when they are not eligible for these emergency processes.

More data is needed to clearly assess the reasons that some localities take longer to provide CSA services. OCS does not collect data on how long it takes for children’s first FAPT meeting to be scheduled, IFSPs to be approved, and services to begin. OCS should develop a standard approach local CSA programs can use to measure, collect, and report timeliness data using the number of business days (1) between referral and the first FAPT meeting, (2) between the FAPT meeting and CPMT approval, and (3) between CPMT approval and when service begins. OCS should notify CPMTs of their CSA programs’ performance relative to other CSA programs.

By collecting this data, OCS could identify and help local CSA programs that struggle to quickly connect CSA children to needed services. OCS should develop a standard approach for local programs to collect timeliness data and require that localities submit this data to OCS. OCS could then determine how timeliness varies across local programs and identify local programs that need assistance or additional monitoring to start services in a timely manner.

#### **RECOMMENDATION 10**

The Office of Children’s Services (OCS) should require local Children’s Services Act (CSA) programs to measure, collect, and report timeliness data to OCS at least annually, and OCS should use this data to identify local CSA programs with relatively long start times for services, provide assistance to these programs, and notify Community Policy and Management Teams of their low performance relative to other CSA programs.

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## **Nearly half of localities do not use CSA funds for some children who could be eligible for CSA**

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OCS is in the process of eliminating the use of the term “non-mandated.” OCS will be using the terms “protected funding” and “non-sum sufficient population” in their future materials.

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There are two broad eligibility categories for CSA services. Children are placed in the “mandated” eligibility category if they are at risk of being placed in foster care, are in foster care, or have been placed in a private special education day school. As the term suggests, local CSA programs are required by law to serve mandated children, and the state and local governments are required to fund any services included in mandated children’s service plans. Children who do not meet the mandated criteria, but who could still benefit from services because of their circumstances, are also eligible for CSA funding and services but are placed into the “non-mandated” eligibility category. (See Chapter 1 for further explanation of the mandated and non-mandated eligibility categories.)

Local CSA programs are not required to serve non-mandated children, but programs that do must pay the same local match rates they pay for mandated children receiving services. Nearly all children in the non-mandated eligibility category use community-based services, and local match rates for these services range from 9 percent to 27 percent. In FY19, 969 non-mandated children, comprising about 6 percent of the total CSA population, were served by 69 (53 percent) local CSA programs.

Each locality is allotted a specific amount of state CSA pool funds annually to pay the costs of serving non-mandated children. In FY19, \$14.5 million was designated by the SEC for this purpose. The percentage of the total non-mandated amount allotted to each locality is based on the amount of CSA pool funding the locality received in 1997 (sidebar). Unlike funding for mandated children, funding for non-mandated children is limited—if a locality uses all of its state-allotted non-mandated funds during the fiscal year, it is not eligible to receive additional state funding for children in the non-mandated category until the next fiscal year. (If a locality does not use all of its non-mandated funding, it is not rolled over or redistributed to other localities.)

### **About half of localities do not use non-mandated funds**

Local programs that did not serve non-mandated children in 2019 typically were smaller localities in rural areas that cannot easily afford the local match to serve non-mandated children. Sixty-three percent of rural and outlying localities (sidebar) did not serve any non-mandated children in 2019. By comparison, only 23 percent of urban localities (as identified by the Census Bureau) did not serve any non-mandated youth. Localities that did not serve non-mandated youth also tended to have a greater proportion of families in poverty. On average, these localities had a poverty rate of 19.9 percent among families with children aged five to 17, while localities that do serve non-mandated youth have a poverty rate of 16.5 percent.

In response to a JLARC survey, 34 percent of CPMT chairs in localities that did not serve any non-mandated children in FY20 cited the additional local match required as a reason they did not serve these children. Local programs also cited high FAPT workloads that would prevent them from accommodating children the locality is not required to serve. Some local programs also reported that non-mandated children may be eligible for services funded through sources other than CSA, eliminating the need for CSA to pay for their services (sidebar).

### **Using non-mandated funds could improve children’s outcomes and help control costs**

Not serving non-mandated children may exacerbate two problems that the CSA program was designed to address—delayed intervention for at-risk children and geographical disparities in service availability. About 18 percent of Virginia children live in localities that do not use non-mandated funding, and therefore these children may not receive CSA-funded services largely because of where they live.

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**Allotments of non-mandated funding vary significantly.** In FY20, between \$10,000 and \$1,630,458 was set aside for localities, with the median locality receiving \$34,196.

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**Rural and outlying communities** are designated by the U.S. Census Bureau based on factors including the total population of the area, population density, and land use. Outlying localities are those localities which are in close proximity to central localities, while rural localities are farther.

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**Other funding sources used to serve children** include funds from the Mental Health Initiative, the Virginia Juvenile Community Crime Control Act, and the Department of Juvenile Justice.

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Local program staff agree non-mandated funds allow them to better fulfill CSA's objective. Local staff also agreed that the needs of children being served with non-mandated funds are similar to, just less severe than, those of many children in the mandated eligibility category. For example, children eligible for non-mandated funds must have the same types of emotional/behavioral problems as a mandated child eligible as a Child in Need of Services (CHINS). However, to be eligible as a CHINS, a child must also "require services to address and resolve the immediate crisis that seriously threatens the well-being and physical safety of the child or another person." A non-mandated child and a CHINS child could have similar needs or circumstances, but the needs of the CHINS child are typically more urgent than those of the non-mandated child.

Serving non-mandated children appears to be an effective preventative strategy. CSA coordinators from roughly two-thirds of the local programs that served non-mandated children in the past 12 months reported that serving these children prevented them from entering a mandated category. Therefore, serving non-mandated youth likely prevented their needs from escalating. Additionally, about one-third of CSA coordinators said serving non-mandated children provided better outcomes for children and reduced the time these children needed CSA services.

Serving a non-mandated child costs roughly the same as serving a child receiving foster care prevention services and is typically less expensive than serving other types of children. CSA programs spend, on average, about \$4,500 in state and local funds on a child who is receiving foster care abuse/neglect prevention services. CSA programs spend about \$5,400 on average for each non-mandated child served. These services are less costly on average than those for children receiving services as a CHINS (roughly \$7,700) or in foster care (between \$8,225 and \$22,736).

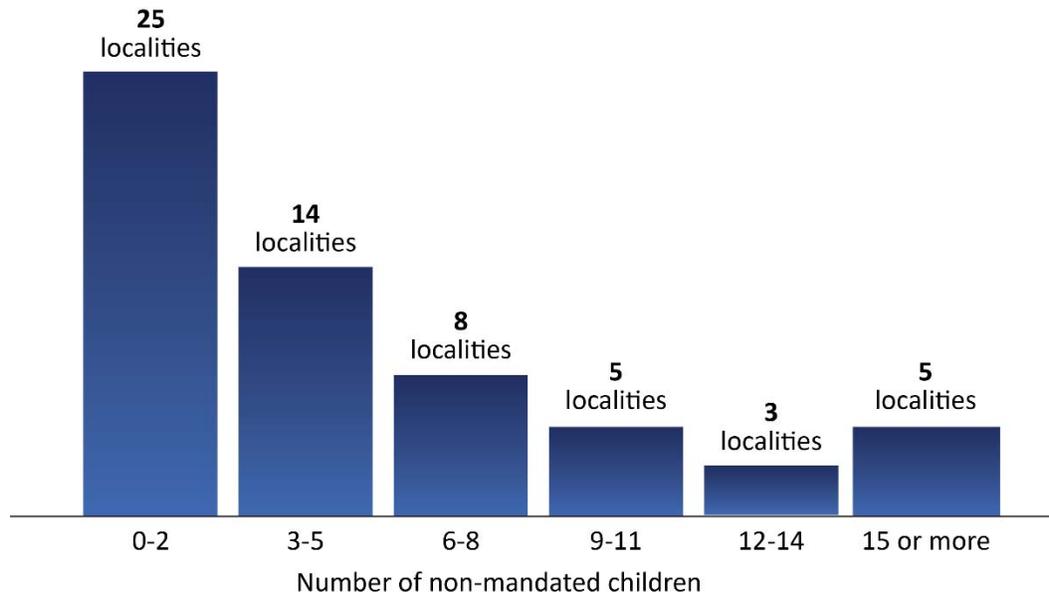
The General Assembly should amend the Code of Virginia to require local CSA programs to use all of the funds that are allotted by the SEC for serving non-mandated children. This could result in 60 localities serving more children than they do now. Non-mandated children make up approximately 9 percent of the CSA clients in localities that serve non-mandated children. Assuming a similar percentage of children would be served in localities that currently do not serve non-mandated children, this change could result in an additional 346 children being served in those 60 localities. The majority of these localities would serve relatively few additional children (Figure 5-1).

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**The average cost of serving non-mandated youth was calculated at the state level using data from LEDRS.** To more accurately estimate additional costs, locality-specific expenditures on non-mandated services were used to project the impact of requiring local programs to serve non-mandated youth.

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**FIGURE 5-1**  
**Majority of localities would serve few additional non-mandated children**



SOURCE: JLARC projection of additional non-mandated children by locality

**RECOMMENDATION 11**

The General Assembly may wish to consider amending the Code of Virginia to (i) require all local CSA programs to serve children who meet criteria established by the Office of Children’s Services and the State Executive Council for the “non-mandated” eligibility category, (ii) require that services for these children be paid for with both state CSA funds set aside each year by the State Executive Council from the CSA pool of funds and local government matching funds, and (iii) maintain the provision that makes these funds non-sum sufficient.

If the state required localities to serve non-mandated youth, it is possible that fewer than 346 additional children would be served. According to staff in several local programs as well as OCS staff, CHINS criteria are interpreted so broadly by some local programs that at least some children who would be classified as non-mandated are actually being served under the mandated category. Additionally, several programs reported they did not have any referrals for children who would meet non-mandated criteria. Therefore, there may not be a demand for these funds in some localities.

It is also possible that more than 346 additional children would be served. Some programs that currently serve non-mandated children may not be serving *all* non-mandated children. If OCS reallocates unspent non-mandated funds to localities that have an unmet demand for those funds, this change could lead to more than 346 additional children being served.

Requiring local CSA programs to serve all non-mandated children would cost an estimated \$1.58 million in combined state and local spending if it is assumed that there

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The amount of matching funds a locality provides varies based on the type of service provided. A locality pays a 50 percent lower share for community-based services than for foster care or special education services.

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This cost estimate assumes that non-mandated children would still be eligible for non-sum sufficient funding. If funding were made sum-sufficient, these estimates could vary.

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are an additional 346 children to be served. Services provided to non-mandated youth are primarily community-based, so the state would be responsible for an estimated \$1.32 million, and localities would be responsible for an additional \$258,000, or an average of \$4,303 per locality (sidebar). This would represent an increase of 29 percent in state and local spending on non-mandated services. (Currently, \$5.4 million of the \$14.5 million set aside for non-mandated children is spent). These estimates could vary if greater or fewer than 346 additional children are served. If all \$14.5 million that is set aside is spent by local programs, additional total local costs would be approximately \$1.24 million.

The state could consider paying for the entire cost of serving non-mandated children, because localities only pay 16 percent of the total costs to serve these children. Not requiring a local match would likely encourage localities to proactively identify and serve these children. However, this may also incentivize localities to categorize youth as non-mandated, rather than mandated, to reduce costs.

Alternatively, the State Executive Council could consider establishing a fund that would reimburse localities for the state's share of services provided to non-mandated children. In this case, a set amount of funding for non-mandated youth would not be allotted to each locality—rather, localities would seek reimbursement from a single non-mandated fund for the state share of their non-mandated expenditures. By using one statewide fund for localities that serve non-mandated children, localities would not be subject to the same individualized spending caps in the current funding model, and non-mandated funds would be spent with greater flexibility, with more state funds going to the local programs that serve more children. This would help address localities' concerns about potentially running out of funds to meet demands for non-mandated services. Some local program staff have been concerned they will be forced to discontinue services for these children if funding runs out. These staff believe that state funds allotted to serve children in the non-mandated category in their localities are not sufficient for local programs to serve eligible children. For example, if a program receives only \$10,000 for non-mandated services, the needs of even one non-mandated child may require services costing more than \$10,000.

If the General Assembly continues to limit the state funds that are available to serve non-mandated children, rather than provide sum-sufficient state funds, the demand for services could eventually exceed the state's ability to pay its share of these services. Currently, only about one-third of the state funds set aside for non-mandated children are spent, and so it is possible that this change will *not* exhaust available state funds in the near term. However, to ensure that decision-makers are aware of the rate at which state funds for non-mandated children are spent and whether the budgeted amount is adequate to meet demands, OCS should report at least quarterly to the SEC on the number of non-mandated children served by each local CSA program and the total amount of state and local funds spent to date on their service needs.

## Longstanding gaps in service availability limit CSA's effectiveness

Gaps in children's services across the state are hindering children's progress, and neither OCS nor localities have the ability to address these gaps. CPMT chairs identified trauma-informed services, school-based mental health services, and family foster care homes as the three most common service gaps across the state. Children either experience delays in accessing these services, or in some cases, cannot access them at all. According to CPMT chairs, the lack of these services hinders children's progress toward their goals and the CSA programs' ability to effectively serve children (Table 5-2). Although rural areas experience more gaps than urban or suburban areas, the most significant gaps, identified in Table 5-2, occur across the state. (For definitions of each of these services, see Appendix D.)

**TABLE 5-2**  
Service gaps hinder children's progress toward goals

| Service gap                       | Programs reporting gaps | Programs reporting that gaps delayed children's progress <sup>a</sup> | Programs reporting that gaps prevented receipt of needed services <sup>a</sup> |
|-----------------------------------|-------------------------|---|--|
| Family foster care homes          | 53%                     | 21%   | 47%  |
| Trauma-informed services          | 40%                     | 58%   | 60%  |
| School-based mental health        | 40%                     | 54%   | 52%  |
| Respite                           | 36%                     | 45%   | 54%  |
| Crisis intervention/stabilization | 35%                     | 48%   | 62%  |

SOURCE: JLARC survey of CSA coordinators.

NOTE: Percentages do not sum to 100 because respondents could provide more than one answer. Percentages were calculated from total numbers of coordinators who did not answer "I don't know."

<sup>a</sup>Percentage of coordinators who responded "about half of children or greater." Percentages are based on responses to two questions: (1) "Over the past 12 months, roughly how many children needing [specific service] experienced delays that resulted in the need for additional services or impeded the child's progress?" and (2) "Over the past 12 months, roughly how many children needing [specific service] were unable to receive this service due to a lack of providers?"

Children's conditions may worsen without access to needed services, and they may eventually need more intensive and costlier services. CSA programs sometimes have to send children out-of-state to receive residential services, which is often more expensive than an in-state service and can be more disruptive to a child's life.

CPMT chairs reported that when they have had success in developing services in their communities, they have partnered with other local public agencies, especially CSBs and schools, and with private providers interested in expanding their businesses (Case Study 5-4). However, significant barriers still exist to developing services to fill gaps (Table 5-3).

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CSA coordinators were asked to identify the **top five service gaps** in their communities. For each one identified, they were asked to estimate (i) how many children needing the service were unable to receive it and (ii) how many children needed *additional* services or experienced impediments to their progress because of the service gap.

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JLARC conducted a survey of CPMT chairs in July 2020 to gather their perspectives on the management of local CSA programs. Of the 119 chairs surveyed, 94 chairs responded (a response rate of 79 percent). See Appendix B for additional information about the survey.

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**CASE STUDY 5-4**

A CPMT partnered with their local CSB to use the CSB's full range mental and behavioral health services. The CSB was able to expand the availability of therapeutic day treatment services and intensive care coordination. The same CPMT also received a grant through the CSB that allowed them to form a regional trauma-informed care network.

**TABLE 5-3**  
**CPMT chairs identified several barriers to developing services**

| <b>Reason for difficulty in developing services</b>              | <b>CPMT chairs who identified this barrier</b> |
|--|--|
| Private providers' lack of resources to expand                   | 39%  |
| Time constraints to deal with competing priorities for CSA       | 37%  |
| Not enough flexibility in how CSA programs can use state dollars | 34%  |
| Lack of support from local government                            | 6%   |
| Difficulty defining the type and scope of services needed        | 6%   |
| Difficulty collaborating with other local CSA programs           | 5%   |
| Difficulty collaborating with other local agencies               | 4%   |

SOURCE: JLARC survey of CPMT chairs.

NOTE: Percentages do not sum to 100 because respondents could provide more than one answer.

CPMT chairs said a local CSA program cannot address several barriers to service development on its own. Several CPMT chairs from rural areas said their small populations cannot provide enough business to attract a private provider, so partnering with private providers would not be an effective way for them to fill service gaps.

In addition, CPMT chairs said the lack of flexibility in how local CSA programs can use CSA dollars makes filling services gaps more difficult, with one saying that these funding restrictions "limit the ability of local programs to be creative... which then limits our ability to bring services to areas that are underserved." Without funding dedicated to service development, CPMT chairs cannot devote adequate time to filling these service gaps.

Several state agency initiatives are underway to expand access to children's services statewide, and OCS has participated in them. OCS's continued participation in these efforts can help ensure that services for children served by CSA are expanded.

- **Medicaid behavioral health enhancement** is an initiative to expand the continuum of behavioral health services available to Medicaid recipients, including children, by covering more services and increasing reimbursement for existing services. Although behavioral health enhancement focuses specifically on developing services for Medicaid recipients, developing more children’s services across the state will benefit all children since providers will most likely also accept non-Medicaid clients.
- **The Children’s Inpatient Workgroup**, which released its first report in August 2020, assessed the extent of the gaps in psychiatric inpatient and crisis services. The workgroup provided several recommendations on ways to address gaps in these services for children, including investing further in community-based alternatives to inpatient psychiatric treatment and in discharge planning and transition services for children when they are ready to leave inpatient treatment.

In its 2006 report, JLARC recommended a strategy to make additional funding available to expand services for the CSA population. The report recommended that OCS should consider requesting additional funding from the state to expand Innovative Community Services grant funds, which were competitive grant funds localities could apply for to develop intensive care coordination services in their communities in partnership with CSBs. This recommendation was never implemented, and the grant program expired, but the strategy still has merit. Allowing localities to apply for state-funded grants to develop new services could help address ongoing service gaps and ensure localities have detailed plans to use any money awarded.

OCS could prioritize grant funds for the most needed services but should consider other needs so that all regions of the state can benefit from the grant program. Some localities serve only a small number of children, so OCS should consider whether to allow multiple CSA programs in a region to apply together for grants. The SEC should work with local CSA programs and CSBs to assess the feasibility and efficacy of initiating and SEC-administered grant program and report on (1) a process to prioritize services that are most critically needed, (2) the causes of gaps in these services, (3) an estimated appropriation for the grant pool, (4) the extent to which localities could more effectively address gaps by applying for grants on a regional basis, and (5) any associated administrative costs.

## RECOMMENDATION 12

The General Assembly may wish to consider including language in the Appropriation Act directing the State Executive Council (SEC) to form a committee composed of selected SEC members, State and Local Advisory Team members, and Office of Children’s Services staff to assess the feasibility and efficacy of initiating an SEC-administered competitive grant fund to fill gaps in children’s services and report its findings by January 1, 2022 to the chairs of the House Appropriations and Senate Finance and Appropriations committees.

*“ When CSA first started there was talk that we would save money and be able to use those funds to begin new services or programs. This has never really happened. It would be nice if there was a fund set aside so that localities could apply for those funds for service development. ”*

- CPMT chair



# 6 Role and Responsibilities of the Office of Children’s Services

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The Office of Children’s Services (OCS) is the primary state agency responsible for administering the Children’s Services Act (CSA). OCS is responsible for providing training and technical advice to local programs, ensuring the appropriate use of state funds, and driving program improvements through state policy and the identification of best practices. OCS also collaborates with many other state agencies that play important roles in the services and funding for CSA clients, including the Department of Social Services, the Department of Education, the Department of Medical Assistance Services, and the Department of Behavioral Health and Developmental Services.

OCS currently employs 14 staff in four departments. Four staff—an executive director, an assistant director, a research analyst, and one administrative assistant—are responsible for overseeing the program. Three program consultants are responsible for developing and presenting guidance and training to local programs, as well as responding to technical assistance requests. Three staff are dedicated to maintaining OCS’s information technology and financial operations. OCS also employs four audit staff who audit each locality once every three years on a rotating basis. The program’s fiscal agent, responsible for the distribution of CSA funds, is housed in the Virginia Department of Education.

**TABLE 6-1**  
**Office of Children’s Services structure and staffing**

|                        | <b>Role</b>  | <b>Staff</b> |
|------------------------|--|--------------|
| Office of the Director | Oversees OCS, coordinates with relevant state agencies, identifies and addresses trends in CSA performance                   | 4            |
| Program Consultation   | Develops training and informational materials, organizes CSA statewide conference, responds to local programs’ inquiries     | 3            |
| Program Auditing       | Conducts audits of local programs on a three-year cycle, collects and maintains documentation of adherence to state policies | 4            |
| Finance and IT         | Oversees the administration of state funds to localities, maintains OCS data systems   | 3            |

SOURCE: Office of Children’s Services

## **CSA program could benefit from more well-defined OCS responsibilities and active OCS role**

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A systems of care model is a nationally recognized best practice in which care is delivered through a collaborative system of services. The model brings together all relevant agencies and stakeholders to identify innovative ways to best serve client needs.

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The CSA program's locally administered structure allows for necessary flexibility, but some local programs are not operating as intended. CSA is designed to encourage local programs to use a "systems of care" approach to service planning, but some local governments view CSA as simply a source of state funding for children's services. The failure of some localities to embrace the systems of care philosophy was cited as a concern by numerous stakeholders, including CSA coordinators, CPMT chairs, State and Local Advisory Team (SLAT) members, and OCS staff:

Agencies continue to work within their silos, and can sometimes look to CSA as only a means of funding, rather than an opportunity to provide assessment and planning for youth and families. – CSA coordinator

While there are many positive outcomes for cases through CSA, it has become all too easy for routine approaches to not be challenged and for innovation to have little opportunity to be considered... – CPMT chair

The biggest difference [between more and less successful programs] is when localities are invested in CSA as a program, not a funding stream. – OCS staff

Certain policies adopted by localities may not adequately serve the needs of children and families. For example, in some localities, Family Assessment and Planning Team (FAPT) meetings are held daily, while in other localities they are held only once per month. In localities where a service planning meeting is required before services can be initiated, children may wait weeks before receiving services. Some local programs have policies and procedures that detract from the program's effectiveness in coordinating timely, effective, and collaborative services, and OCS should have the ability to identify, monitor, and improve these programs.

### **OCS lacks a clear mandate for ensuring local program effectiveness**

Effective OCS supervision of local programs could help reduce problems associated with ineffective policies and procedures, but the Code of Virginia does not give OCS sufficient responsibility for ensuring that local programs operate effectively. Section 2.2-2649 of the Code of Virginia outlines OCS's responsibilities, which include developing and recommending policies to support cooperation and collaboration in service provision, providing oversight of administration and compliance, and providing training and technical assistance. However, the Code does not require OCS to regularly monitor the impacts of local policies and procedures on program performance or recommend to the State Executive Council (the supervisory council responsible for CSA policymaking) new requirements to ensure local programs' effectiveness (Table 6-2).

**TABLE 6-2**  
**Code requirements do not require OCS to ensure program effectiveness**

| <b>OCS Responsibilities</b> | <b>Code section (§2.2-2649)</b> | <b>Responsibilities</b>  |
|-----------------------------|---------------------------------|--|
| <b>Policy development</b>   | B.1                             | Develop and recommend to the SEC programs and fiscal policies to support collaboration at state and local levels   |
|                             | B.2                             | Develop and recommend interagency policies governing the state pool of funds   |
| <b>Resource development</b> | B.17                            | Develop and distribute a model job description for coordinators  |
|                             | C.1                             | Develop a web-based database of the authorized vendors of CSA services and the service's rate  |
|                             | C.2                             | Develop a standardized purchase of service contract to enable localities to specify the discrete services purchased, reporting requirements, expected outcomes, and performance timeframes |
| <b>Training/ Guidance</b>   | B.4                             | Provide training and technical assistance in the provision of efficient and effective services   |
|                             | B.10                            | Identify, disseminate, and provide annual training for CSA staff and other interested parties on best practices  |
|                             | B.18                            | Develop and distribute guidelines regarding the use of multidisciplinary teams and reduce FAPT caseloads to allow additional time for more complex and potentially costly cases            |
| <b>Program monitoring</b>   | B.3                             | Develop and provide oversight for program administration and compliance  |
|                             | B.13                            | Develop a uniform set of performance measures in accordance with subdivision D 17 of § 2.2-2648  |
|                             | B.16                            | Report to the SEC on the nature and cost of services provided  |

SOURCE: JLARC analysis of the Code of Virginia

OCS has developed resources for localities but does not regularly recommend specific actions localities should take to address concerns. Specifically, local program staff say they need better guidance on topics such as improving program efficiency, eligibility for CSA services, and contracting. CSA coordinators believe that OCS's help desk provides useful information but too often defines what localities are allowed to do instead of providing concrete guidance or recommendations.

Confusion over service payments during the COVID-19 pandemic exemplifies why better OCS guidance is needed. As private day programs transitioned to providing services virtually rather than in-person, local CSA programs had to determine whether services provided virtually were equivalent to those provided in-person and whether they should continue paying the full rate for these services. OCS indicated that these decisions had to be made by localities and did not quickly determine whether localities should continue reimbursing providers at the same rates. Many coordinators believe their programs would have benefited from this issue being handled centrally by OCS and expressed significant frustration with OCS's position. This was a particular problem for some smaller localities that lacked the purchasing power and contract expertise necessary to effectively negotiate with private day school providers.

*“ When it comes to major issues where localities NEED support and guidance from the state, it would be helpful for the state to stand up and issue one consistent message that is clear and supportive to localities. The frustration is when the state's answer is, ‘We can't tell you it's a local decision.’ ”*

**- CSA coordinator**

OCS audits localities for compliance, but these audits are of limited value in assessing program effectiveness. While audits allow the state to verify that localities follow requirements and ensure the proper use of state resources, audits do not identify ineffective policies or procedures. For example, OCS audits review whether localities have a utilization review policy but do not address the frequency and methodology of utilization reviews. Many CSA coordinators expressed frustration with OCS's audit function, describing it as punitive rather than constructive.

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OCS program consultants use "exception reports" to identify instances where a locality is underperforming relative to others using OCS-identified outcome measures and data from LEDRS. There is no OCS policy dictating how frequently these are produced or reviewed, or how they are to be used by OCS staff.

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The Code of Virginia could be more explicit about the role of OCS for local CSA programs. Neither OCS nor any other state entity has clear authority to intervene when a local CSA program is *ineffective*, only when it is not in *compliance*. For example, the SEC is responsible for the development of mandatory guidelines for utilization management, but OCS has no direct responsibility to ensure the effective use of these guidelines. OCS regularly tracks outcomes, but it does not use outcomes to directly address concerning performance trends (sidebar). The Code of Virginia should specify that OCS has the responsibility to oversee local programs and the ability to intervene when necessary to better ensure the consistency, quality, and effectiveness of local CSA programs that serve Virginia's most vulnerable children and families.

### RECOMMENDATION 13

The General Assembly may wish to consider amending §2.2-2649.B.1 of the Code of Virginia to direct the Office of Children's Services (OCS) to provide for the effective implementation of the Children's Services Act program 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 that will be submitted to OCS and the State Executive Council.

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### OCS lacks comprehensive information on local program staffing and administrative resources

Local CSA programs are responsible for numerous administrative responsibilities. Each year local CSA programs receive state funding to assist with the program's administrative costs. The current total allocation of \$2,060,000 is divided among local programs based on 1994 CSA pool fund allocations. Most localities (72 percent) receive \$10,787 in state allocations, with some localities receiving up to \$43,149. Local CSA program staff are typically responsible for

- conducting fiscal management;
- analyzing trends in service use and costs;
- identifying, developing, and negotiating contracts with service providers;
- monitoring the status and progress of every CSA client; and
- coordinating and attending all or most FAPT and CPMT meetings.

These duties may be difficult for some coordinators to fulfill. These can be especially challenging for CSA coordinators with no additional CSA staff (40 percent), coordinators who serve CSA part time (24 percent), and coordinators who serve multiple localities (9 percent). While some localities are able to secure additional administrative funds from their local governments, 40 percent of CPMT chairs who responded to a JLARC survey indicated they did not believe their locality had sufficient administrative funding to meet their clients' needs.

New CSA coordinators may also struggle to understand and implement the various responsibilities of their role. Nearly 20 percent of current CSA coordinators surveyed had been in their position for less than one year, and roughly one-third had been in their position for fewer than two years. The frequent turnover of CSA coordinators has been cited as a concern by numerous stakeholders.

Despite the importance of sufficient staff to operate an efficient and effective local program, OCS does not have comprehensive information on local program staffing or the extent to which local programs rely on local funding for their staff. This data would enable OCS to identify local programs that could benefit from additional technical assistance and determine whether and how additional state funding could be used to enhance local program operations (sidebar).

#### **RECOMMENDATION 14**

The Office of Children's Services should 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-resourced local programs.

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Staffing levels and administrative budgets could be affected by the match rates paid by each locality. Localities that have higher match rates (i.e. required to pay higher percentages of service costs) may seek to control program costs by limiting CSA staffing. A JLARC analysis shows that more than half of localities are paying match rates that are 10 percent higher than what they would pay if the rates were based on the state's composite index. The composite index is a measure of a local government's ability to contribute local funding to the cost of state/local programs. Though match rates were not frequently identified by stakeholders or survey respondents as a primary concern, OCS should consider their potential impact on the ability of localities to adequately staff their local CSA programs. (See Appendix F for additional information on this analysis.)

“ There seems to be an overwhelming sense that CSA coordinators have no support from OCS until their initial training, which was eight months after I started. If it weren't for my regional partners, I wouldn't have been able to navigate the CSA web when I started and I probably would have moved on. They need to focus less on review audits and more on direct support staff. ”

- CSA coordinator

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Since JLARC's 2006 review of the CSA program, improvements have been made to local CSA administration. JLARC recommended that the state increase the amount of CSA administrative funds provided to localities. In 2016, an increase of \$500,000 was appropriated by the General Assembly. The 2006 JLARC report also identified a lack of CSA coordinators in several localities, and currently, every locality has at least a part-time CSA coordinator position, and most (76 percent) have a full-time CSA coordinator.

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## **OCS should develop a plan to oversee and improve the effectiveness of local CSA programs**

The Office of Children's Services does not currently have the capacity to work closely with localities to improve effectiveness. OCS's four *audit staff* are able to conduct only compliance auditing to verify that local programs are operating according to Code and SEC requirements and to ensure that state resources are expended appropriately. The three OCS *program consulting staff* develop and deliver trainings on a wide array of topics and are unable to consistently or substantively connect with local programs. OCS consultants serve as specialists on CSA policy topics (foster care or special education, for example), and they develop trainings and guidance documents and respond to specific questions from localities. However, they do not regularly evaluate individual programs' effectiveness or recommend policy changes and are unable to consistently perform site visits to each locality.

OCS could expand program consultants' roles and add new consultants to work more closely with localities. OCS could enhance the consultants' roles in several ways, including:

- hiring additional consultants and assigning consultants to regions to allow them to become more familiar with local policies and work directly with localities to improve effectiveness;
- using data from the CQI tool (sidebar) and LEDRS to identify localities that are experiencing difficulties and provide additional targeted assistance, such as observing FAPT/CPMT meetings, meeting with local staff, and recommending changes to local policies and procedures;
- supporting all new CSA coordinators on-site when they begin working, if requested, rather than holding a once-per-year training; and
- facilitating regional collaboration between programs, such as the regional collaboration in Southwest Virginia, which could reduce the burden experienced by new coordinators and allow coordinators to share best practices and materials, such as standard contracts.

OCS should determine how it could effectively and efficiently expand its supervision of and assistance to local CSA programs, the resources needed, and how those resources would be used. In doing so, it should work with the SEC and the State and Local Advisory Team (sidebar) and consult with other agencies that supervise locally administered programs, such as the Virginia Department of Social Services.

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The CQI tool is a web-based application operated by OCS that allows local programs and stakeholders to track CSA data. The tool enables comparison of outcomes and performance measures across localities and by various demographic factors.

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The State and Local Advisory Team (SLAT) advises the CSA State Executive Council. Its membership includes local CSA program staff, local agency staff, private provider representatives, and state agency staff.

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**RECOMMENDATION 15**

The General Assembly may wish to consider including language in the Appropriation Act directing the Office of Children's Services to develop and submit a plan to modify its staffing and operations to ensure effective local implementation of the Children's Services Act. The plan should include any new or different staff positions required, how those positions will be used to monitor and improve effectiveness, and the estimated cost of implementing these changes. The plan should be submitted to the chairs of the House Appropriations and Senate Finance and Appropriations committees no later than November 1, 2021, in advance of the 2022 General Assembly session.

## Localities have insufficient data to evaluate effectiveness of services or providers

In a 2006 evaluation of residential services delivered through CSA, JLARC found that the state had no system for tracking outcome measures and recommended tracking children's scores on a standardized assessment instrument to evaluate outcomes of children in CSA. Since that study, OCS has developed a system to track outcomes using the three domains of the CANS assessment as well as four performance measures (Table 6-3). Currently, OCS publishes yearly analyses of these metrics. This data is provided to localities through the Continuous Quality Improvement (CQI) tool.

**TABLE 6-3**  
**Outcome indicators and performance measures currently used by OCS**

|   | <b>Purpose</b>  |
|---|---|
| <b>Outcome indicators</b>   |   |
| CANS school domain  | Indicates changes in a child's school achievement, attendance, and behavior   |
| CANS behavioral/emotional needs domain  | Indicates changes in a child's mental health, including anger control, psychosis, substance use, and depression   |
| CANS child strengths domain   | Indicates changes in particular interests, healthy relationship formation, and support systems  |
| <b>Performance measures</b>   |   |
| Percentage of youth receiving intensive care coordination services              | Also known as high-fidelity wraparound, intensive care coordination seeks to integrate families and other youth supports to prevent or shorten placements in residential settings |
| Percentage of youth receiving only community-based services                     | CSA aims to serve children in the least restrictive environment, and community-based services are the least restrictive service type  |
| Percentage of youth in foster care in family-based placements                   | Best practices suggest that youth are best served in a foster family or family-like setting, rather than a congregate care environment  |
| Percentage of youth who exit from foster care to a permanent living arrangement | Children who exit to permanent placements, either with relatives or through adoption, are known to have significantly better outcomes than those who do not                       |

SOURCE: OCS's CSA performance measures/outcome indicators report FY18.

Current outcome and performance measures do not enable local CSA programs to assess service or provider effectiveness. The Continuous Quality Improvement (CQI) tool, the primary way that data is made available to CSA coordinators, is commonly used by local programs to assess program performance. Currently, the CQI tool presents outcomes and performance data aggregated by a child's referral source, gender, race, and service placement type (for example, community-based or residential services), but does not present outcomes data broken down by individual service (for example, mentoring or respite services) or provider. The CQI currently contains (at both the state and local levels):

- child count broken down by mandate type (e.g. foster care, special education), service placement type, referral source, race, gender, and age;
- net expenditures broken down by the metrics listed above; and
- aggregate scores on each of the seven outcome and performance measures identified in Table 6-3.

Local CSA programs rely on the CQI tool to inform policies and procedures, but it does not enable local programs to evaluate service effectiveness. The CQI tool is broadly recognized as useful and user-friendly by local programs, but several local staff indicated that the CQI tool would be more useful if localities could clearly identify trends for individual services and their effectiveness. Measuring improvement in CANS scores, length-of-stay in services, and cost per child *at the service level* would enable local CSA programs and the state to evaluate whether specific services are effective and inform future service planning and placement decisions.

Analyzing existing data *at the provider level* would help local CSA programs ensure they are using appropriate, high-quality providers. Many local CSA programs evaluate providers on a case-by-case basis through utilization review, but standardized information is not collected by localities or aggregated by OCS to systematically assess providers. Providing localities with this data will enable localities to make a more informed provider choice, potentially leading to better outcomes.

Tracking the frequency of services provided and time spent receiving services would provide a more complete understanding of the effectiveness of services and providers. Improvements in CANS scores indicate positive outcomes of children receiving services, but local programs could benefit from understanding how frequently and for what duration services are required to achieve these outcomes. This data would allow localities to identify providers and services that achieve beneficial outcomes for children while requiring the least amount of time spent receiving services, which could reduce the time a child requires services and potentially result in cost savings. These metrics could also be used to track the performance of the CSA program over time.

Several localities currently conduct their own data analysis to understand the effectiveness of individual services. In addition, several CPMT chairs indicated that they analyze data to determine the effectiveness of individual providers. However, localities

may struggle to conduct these analyses without state resources and assistance. The localities that have conducted detailed outcomes analysis could work with OCS to track more useful statewide performance measures on a service and provider basis. OCS already collects the relevant data on services and providers, and so no new data collection would be required.

**RECOMMENDATION 16**

The Office of Children's Services should modify its Continuous Quality Improvement tool to allow local Children's Services Act programs to review metrics on a service and provider level, including changes in Child and Adolescent Needs and Strengths (CANS) scores, length-of-stay in services, and spending per child.

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Currently, OCS relies primarily on CANS scores to understand child outcomes, which do not always capture whether the CSA program has effectively met a child's needs. The CANS tool includes many indicators for improvements in a child's well-being, but given the complexity and unique nature of cases, a positive outcome for one child may look different than a positive outcome for another. Differences in children's goals are not accounted for using the CANS. Moreover, local program staff have indicated that caseworkers (or, in some cases, FAPTs) who complete the CANS do not always have all of the information necessary to complete a thorough assessment. In some cases, the CANS is viewed as a requirement to obtain funding, rather than an opportunity to assess progress. This variation in how the CANS is implemented may also affect its usefulness in assessing outcomes.

To supplement the information that it collects from the CANS, OCS could also track outcomes through a statewide survey of parents of children receiving CSA services. Parents may be in the best position to assess the impact of CSA-funded services on their child's well-being and daily functioning. Several local programs survey parents to identify areas for improvement. These surveys could be analyzed and reported in conjunction with existing outcome measures to provide a more comprehensive understanding of program performance.

**RECOMMENDATION 17**

The Office of Children's Services should work with Children's Services Act (CSA) programs to design and administer a statewide survey of parents/guardians of youth who are receiving CSA services to obtain their assessment of how well the program and CSA-funded services have addressed their child's emotional and behavioral challenges.

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**JLARC's 2018 report on foster care services** found that the CANS was not always being used by Virginia caseworkers as intended. The report recommended that the Virginia Department of Social Services convene a workgroup to address how to maximize the use of the CANS in service planning.

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## Decentralized approach to provider contracting is inefficient and costly, justifying OCS involvement

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The total number of contracts between service providers and localities for CSA-funded services in 2019 was 7,275. Localities may also use purchase orders rather than contracts to establish these agreements, particularly for less expensive or less complex services.

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Each local CSA program is responsible for contracting with providers to deliver the services and supports recommended for children and families by the FAPT and approved by the CPMT (sidebar). Local programs are therefore responsible for establishing their own network of providers. A more centralized contracting process—managed by OCS—would reduce the administrative burden experienced by local programs and providers and eliminate duplicated efforts.

### Contracting requires time and resources

Time spent negotiating contracts varies by locality, but the process is universally burdensome. According to a JLARC survey of CSA coordinators, local staff typically spent three hours finalizing the most recent *new* service provider contract and two hours finalizing the most recent service provider contract *renewal*. This equates to three to four weeks of full-time work negotiating contracts for a locality with 56 contracts (the statewide average). As previously discussed, many local CSA programs have minimal staff.

*Providers* also spend a significant amount of time and resources negotiating contracts, which passes additional costs on to the state and local CSA programs. Contracting for CSA services may be particularly time-consuming for larger providers, who contract with multiple localities, each with their own terms and conditions. Providers must thoroughly review each contract, which is typically more time-consuming than similar contract processes, such as contracting with Medicaid. One large provider stated that negotiating a CSA contract took more than twice as long as the Medicaid contracting process. Service providers indicated that a standard contract would reduce this burden and potentially result in lower service rates.

### Smaller localities cannot effectively negotiate service rates with providers

Smaller localities lack the financial leverage, resources, or expertise to negotiate better terms or rates with providers. The smallest local programs serve fewer than 10 children per year, while the largest program serves more than 1,000. One provider interviewed explained that while most localities pay a set price for services, a “bulk discount” is applied in cases where services for many children are being purchased. In addition, smaller localities are less likely to have county attorneys available to assist with contract development and are less likely to attempt negotiation with providers.

An example of small localities' challenges is the need to modify contracts with private day schools to account for distance learning during the COVID-19 pandemic. Localities were responsible for deciding whether they would continue paying the same or similar prices for *different* services (virtual learning) than they had originally contracted for (in-person learning). This decision was especially difficult for small localities that

feared losing students' spots in private day programs and felt they had little leverage to negotiate rate adjustments because of their size.

### **Consolidating contracting function at the state or regional level could achieve efficiencies for local programs and providers**

The state could negotiate and develop statewide contracts with children's services providers that would be available for local CSA programs. This may reduce the administrative burden for local programs and providers. While the typical locality engages about 35 service providers, the number of providers used by local programs varies from as few as one provider to as many as 400. Most providers serve only one or two localities, but roughly 350 providers in Virginia serve three or more localities and must establish contracts with each locality. For providers that serve more than one locality, using the same contract with each locality would eliminate the need to negotiate separately with each locality.

Any statewide contract should be optional. Some local staff were concerned that a statewide contract could negatively affect their relationship with providers. Specifically, localities believe a statewide contracting model may reduce their flexibility to negotiate their own terms with providers to best serve the needs of children. They also expressed concerns about whether all providers they currently use would agree to the terms in a state-negotiated contract. Localities also have concerns with the intersection of local contracting requirements and state-negotiated terms, primarily with regard to the insurance coverage a locality requires a provider to carry (sidebar).

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**Each locality may require service providers to carry different levels of coverage to reduce a locality's liability.** Insurance required may include coverage against bodily harm, sexual abuse, or transportation injuries.

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A drawback to optional statewide contracts is that low participation by localities would diminish buying power and administrative efficiencies. OCS should first evaluate localities' and providers' interest in using a statewide contract. This could be done with guidance from the Department of General Services, the state's central contracting agency for non-IT goods and services.

### **RECOMMENDATION 18**

The Office of Children's Services should work with (i) the Department of General Services to determine the benefits and feasibility of a statewide contract for children's services and the types of children's services and service providers that would be included and (ii) the Office of the Attorney General to develop contracts to be made available to all local Children's Services Act programs where beneficial and feasible.

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Another option that could achieve similar goals but maintain local contracting responsibility would be for the state to facilitate regional contract development. Some localities already collaborate on regional contracts, which reduces the burden of developing contracts and identifying providers. Nine localities in Southwest Virginia currently use two standard contract templates developed jointly. This reduces the burden of developing contracts, particularly for localities that do not employ county attorneys. In interviews, localities who use these contracts did not express any difficulties with using

them, and they are broadly accepted by service providers without the need for additional negotiation.

## Appendix A: Study mandate

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### Review of the Children's Services Act's Purpose, Spending, and Service Delivery

WHEREAS, the Children's Services Act (CSA) (§ 2.2-5200 et seq. of the Code of Virginia), originally known as the Comprehensive Services Act, was established in 1992 as a comprehensive system of services and funding through interagency planning and collaboration at the state and local levels in an effort to better meet the needs of at-risk youth and their families; and

WHEREAS, since its creation, the Children's Services Act has undergone numerous changes regarding its administration, covered services, and funding sources; and

WHEREAS, most participants are children in foster care or special education and are federally mandated to receive services; and

WHEREAS, program spending on private school special education services represents the largest use of CSA funds, and the average annual cost per student placed in a private school for special education services has increased sharply to more than \$40,000; and

WHEREAS, localities are primarily responsible for administering the program, creating the potential for variation in policies and procedures for determining program eligibility, service provision, and oversight of outcomes and spending; now, therefore, be it

RESOLVED by the Joint Legislative Audit and Review Commission that staff be directed to study the administration of the Children's Services Act.

In conducting its study, staff shall (i) assess the extent to which there are any gaps in the availability of services for youth and their families under the CSA program, including children's residential services, private school special education services, and community-based services; (ii) evaluate the costs of those services and the CSA program's reimbursement for them, especially for private school special education services; (iii) evaluate whether children are receiving the most cost-effective services based on their needs, including how decisions are made regarding the placement of children in private school special education services; (iv) determine what has driven changes in the cost of services through CSA and the number of children being served; (v) evaluate state oversight and administration of the program; (vi) evaluate the local oversight and administration of the program, specifically with regard to delivering cost-effective services, evaluating service delivery outcomes, and managing individual cases; and (vii) determine whether any fundamental changes are needed to the program to improve the efficiency and effectiveness of serving youth and their families.

JLARC shall make recommendations as necessary and review other issues as warranted.

All agencies of the Commonwealth, including the Office of Children's Services, the Virginia Department of Education, the Virginia Department of Social Services, the Virginia Department of Medical Assistance Services, the Virginia Department of Behavioral Health and Developmental Services, local school divisions and school boards, local departments of social services and boards, and Community

Services Boards shall provide assistance, information, and data to JLARC for this study, upon request. JLARC staff shall have access to all information in the possession of state agencies pursuant to § 30-59 and § 30-69 of the Code of Virginia. No provision of the Code of Virginia shall be interpreted as limiting or restricting the access of JLARC staff to information pursuant to its statutory authority.

## Appendix B: Research activities and methods

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Key research activities performed by JLARC staff for this study included

- structured interviews with leadership and staff of state agencies, local program staff, and other stakeholders;
- site visits with local CSA programs and private providers;
- observation of local service planning meetings;
- surveys of CSA coordinators, CPMT chairs, case managers, and private day education programs;
- collection and analysis of data from the Office of Children’s Services (OCS) and the Virginia Department of Education;
- reviews of national research; and
- reviews of state laws, regulations, and policies relevant to the administration of the Children’s Services Act, as well as local policies and procedures, and other relevant documents.

### Structured interviews

Structured interviews were a primary research method for this report. JLARC staff conducted more than 100 interviews. Key interviewees included:

- leadership and staff of the Office of Children’s Services (OCS) and other state agencies;
- local school division special education staff;
- private day school education service providers;
- staff of local programs, including CSA coordinators, CPMT chairs, and SLAT representatives; and
- parents of children who received CSA-funded services.

### *Interviews with state agencies*

JLARC staff conducted interviews with staff from Virginia agencies, including the

- OCS;
- Department of Behavioral Health and Developmental Services;
- Department of Medical Assistance Services;
- Virginia Department of Social Services; and
- Virginia Department of Education.

Topics included background and administration of CSA, available data, state agency perspectives on the CSA program, state agency involvement with the CSA program, and licensing and oversight of residential facilities and private day schools.

### *Structured interviews with local school division special education staff*

JLARC staff conducted interviews with local school division special education staff in 23 school divisions throughout the state. School divisions were chosen for interviews to ensure that a variety of school divisions were interviewed in terms of geographic location, population density, population size, and percentage of special education students placed in private day schools. Interview topics included

types of children placed in private day school, changes in private day school placement rates, services offered by private day schools in comparison to public schools, satisfaction with the quality of services offered by private day schools, transitions from private day school to public school, and relationships with local CSA programs and private day schools. Special education staff at the following local school divisions were interviewed:

- Alleghany County,
- Buena Vista City,
- Charles City County,
- Fairfax County,
- Greensville County,
- Halifax County,
- Henrico County,
- Lexington City,
- Loudoun County,
- Lynchburg City,
- Martinsville City,
- New Kent County,
- Norfolk City,
- Poquoson City,
- Prince William County,
- Roanoke City,
- Roanoke County,
- Rockbridge County,
- Stafford County,
- Suffolk County,
- Washington County,
- Williamsburg – James City County, and
- Wythe County.

***Structured interviews with private day school staff***

JLARC staff conducted structured interviews with staff at eight private day schools with 35 campuses throughout the state. Additionally, prior to the beginning of the COVID-19 pandemic and school shutdown, JLARC staff conducted site visits to two private day school campuses. Interview topics included the types of children served in their schools, services offered by their schools, school staffing, relationships with school divisions and local CSA programs, and school financing. Staff at the following schools were interviewed:

- Alternative Paths Training School,
- Dominion Academy (site visit),
- Elk Hill (site visit),

- Faison Center,
- Grafton,
- Hughes Center,
- Minnick Schools, and
- Rivermont Schools.

### ***Interviews with local CSA staff***

JLARC staff conducted structured interviews with staff from 13 local CSA programs:

- Danville;
- Fairfax/Falls Church;
- Greenville/Emporia;
- James City County;
- Prince William County;
- Richmond City;
- Shenandoah County;
- Suffolk;
- Tazewell; and
- Virginia Beach.

Topics covered in these interviews included the value of the FAPT process for children and families; challenges in administering the FAPT process locally; the extent and effect of service gaps in their community; utilization review and utilization management; state-level CSA administration and governance; ways that the CSA program could be improved at the state and local level; local match rates; and private day school placement as it relates to the local CSA program.

### ***Structured interviews with staff in other states***

JLARC staff conducted structured interviews with state-level staff in other states regarding how they serve at-risk youth. Interviews were conducted with staff at the state departments of education in Indiana and Pennsylvania regarding how they fund services for children with challenging behaviors that require intensive services, including private day school services. JLARC staff also interviewed staff from Colorado's Department of Human Services about the structure, funding, and outcomes of their children's services program, as it has key similarities to the CSA program.

### ***Structured interviews with parents of children who received CSA services***

JLARC staff interviewed seven parents from six localities whose children are receiving CSA services or have received them in the past. Topics of the interviews included how their children entered CSA-funded services, their perspectives on how the CSA program affected their child and family, how the

CSA program and FAPT process could be improved for children and families, and the extent to which they felt their perspectives were incorporated into CSA service plans.

### **Site visits with local CSA programs**

Although JLARC staff's ability to conduct site visits for this study was limited because of COVID-19 restrictions, staff were able to visit three local CSA programs and interview their Community Policy and Management Teams:

- Charlottesville/Albemarle;
- Hanover; and
- Hampton.

Topics included an overview of their local program, including their administrative processes, child population, and service utilization; and interactions with OCS; and ways to improve the CSA program. JLARC staff also reviewed child case files at these site visits to better understand the needs of children in CSA services.

### **Site visits with private providers**

JLARC staff were able to conduct site visits at the beginning of the study with two private providers: one private day school and one comprehensive program that included both residential treatment and a private day school. The goal of these visits was to understand private provider perspectives on CSA and how the program could be improved, and learn more about private day schools' and residential treatment centers' operations.

### **Observations of Family Assessment and Planning Team meetings**

JLARC staff were able to observe service planning meetings at three local CSA programs (in Loudoun, Chesterfield, and Russell counties). Across these meetings, staff observed service planning procedures for 24 CSA clients. Clients in cases observed had a wide array of needs and services recommended, including private day education, foster care maintenance, independent living arrangements, and community-based services.

### **Surveys**

Four surveys were conducted for this study: (1) CSA coordinators, (2) case managers, (3) Community Policy and Management teams, and (4) private special education day schools.

#### ***Survey of CSA Coordinators***

The survey of CSA coordinators was administered electronically to all CSA coordinators using a roster maintained by OCS. CSA coordinators were asked to identify the locality for which they serve as coordinator. Coordinators that serve multiple localities were asked to submit a response based on the locality which served the highest number of CSA clients. JLARC received responses from 105 coordinators of 116 surveyed for a response rate of 91 percent. These coordinators' localities served 90 percent of the CSA census in 2019. Respondents received different multiple choice and open-ended questions depending on local policies and procedures and concerns identified, but topics included:

- basic characteristics about local programs;
- the role of the CSA coordinator;
- local procedures for service planning;
- perspectives on utilization review;
- the process of contracting with providers;
- availability of youth services;
- the use of non-mandated funding; and
- state administration of CSA.

### ***Survey of CSA case managers***

JLARC staff conducted a survey of CSA case managers. Because there is not a comprehensive list of CSA case managers available, staff sent the survey to case managers by emailing the link and an introductory letter to all CSA coordinators across the state and asking them to forward the information to all their CSA case managers. Because of this, it is not possible to calculate a response rate for the number of case managers surveyed. However, case managers from 79 localities responded to the survey for a locality response rate of 68 percent. A total of 344 case managers responded to the survey, but only 260 of them could complete the survey because they were required to have a CSA case on their current caseload. Respondents received different multiple choice and open-ended questions depending on their perspectives, but topics included:

- basic characteristics of case managers, including their agency, level of effort for their CSA cases, and the types of cases they manage (i.e., foster care, CHINS, or special education);
- how valuable they find the FAPT process to improve children's service plans and how it could be improved;
- the extent of any delays the FAPT process causes in getting children into services;
- the extent to which they believe children on their caseload are making positive progress, including examples of children making and not making progress;
- the extent of duplication of efforts in meetings, paperwork, and assessments in CSA;
- barriers to parent participation in FAPT; and
- the quality of services available in their communities.

### ***Survey of Community Policy and Management chairs***

JLARC also administered an electronic survey to the chairs of all programs' Community Policy and Management Team (CPMT). CPMT chairs were identified using a roster maintained by OCS. JLARC received responses from 94 CPMT chairs of 119 surveyed for a response rate of 79 percent. These CPMT chairs oversee local programs serving 80 percent of the CSA census in 2019. Individuals who served as CPMT chairs for multiple localities were asked to submit only one survey, basing responses on the locality serving the highest number of youth. Respondents received different multiple choice and open-ended questions depending on local policies and procedures and concerns identified, but topics included:

- local program structure;

- steps taken to address service gaps;
- policies for service planning;
- the use and effectiveness of utilization review and utilization management;
- perspectives on private day education programs; and
- state administration and oversight of CSA.

### ***Finance questionnaire of private day schools***

JLARC staff used a questionnaire to collect financial data from private special education day schools. The questionnaire requested high-level data on each schools' revenues and expenditures, tuition rates, staffing levels, and, enrollment. The questionnaire also asked the schools how the pandemic affected them, including the services they offered once schools shutdown in March, how the pandemic affected their finances, and any other actions they took to manage the pandemic's impact. Out of 85 private day schools in Virginia, 68 private day schools submitted responses to the questionnaire—an 80 percent response rate.

### **Data collection and analysis**

Data sources from many sources were collected and analyzed for this study. JLARC staff collected or accessed data from the Office of Children's Services (LEDRS, Data Set, and CANS) and the Virginia Department of Education (December 1 Child Count, SOL Scores, and Federal Graduation Indicator data sets). JLARC also collected and analyzed data from the U.S. Department of Education.

### ***CSA spending data***

JLARC staff collected and analyzed CSA expenditure data for FY10 through FY19. The Office of Children's Services (OCS) used two different data systems during this time period: (1) Data Set from FY10 to FY15, and (2) LEDRS from FY16 to FY19. Both systems collected expenditure data at the child-level, but the LEDRS data system collects more detailed expenditure data from localities than the Data Set system did. For example, the LEDRS data system collects more detailed information about the type of service that was paid for, and also collects information about the provider who delivered the actual service. The Data Set system did not collect detailed service information or provider information. As a result, some analyses were less detailed for the FY10 to FY15 time period.

JLARC staff analyzed this data to understand the factors driving costs in the CSA program. Expenditure data was used to calculate expenditures, recipients, units of service use per recipient, and cost per unit of service for each type of service (Table B-1). Metrics were calculated in aggregate across the CSA program, in aggregate by locality, by service category, and by service category by locality. Additionally, JLARC staff used the Consumer Price Index-Urban (CPI-U) from the U.S. Bureau of Labor Statistics to estimate the impact of inflation on CSA spending.

**TABLE B-1**  
**Spending metrics calculated to analyze cost drivers**

| Metric                   | Definition   |
|--------------------------|--|
| Expenditures             | Total payment amount for each expenditure, summed by service category, groups of service categories, or locality           |
| Recipients               | Number of unique children that received a particular service in a year   |
| Units of service         | Number of units of service each child received of a particular service in a year (i.e. school days for private day school) |
| Cost per unit of service | Total expenditure of a given service divided by the total number of units  |

Service categories, known as “service placement types” (SPTs), categorize the type of service children received, and metrics were calculated for each of these categories. These service categories were grouped into five major groups (Table B-2). These services categories are the most detailed description of services in the Data Set system, and they are also included in the LEDRS data system.

**TABLE B-2**  
**Service placement types used by CSA’s data systems**

| Major group                      | Service category or service placement type                       |
|----------------------------------|--|
| Community services               | Community service  |
|                                  | Intensive in-home  |
|                                  | Intensive care coordination                                      |
|                                  | Community transition services                                    |
| Foster care services             | Foster care basic maintenance                                    |
|                                  | Therapeutic foster home  |
|                                  | Independent living arrangement                                   |
|                                  | Independent living stipend                                       |
| Residential services             | Residential treatment facility                                   |
|                                  | Group home   |
|                                  | Temporary care facility  |
|                                  | Psychiatric hospital/crisis stabilization                        |
| Private day school               | Private day school   |
| Other special education services | Wraparound services for students with disabilities               |
|                                  | Congregate educational services (Medicaid funded placements)     |
|                                  | Congregate educational services (non-Medicaid funded placements) |

SOURCE: Office of Children’s Services, “CSA Service Categories and Definitions,” effective 7/1/2016.

CSA expenditure data was also used to conduct other analysis of the use of private day school. JLARC staff analyzed expenditure data across the 10-year period (FY10 to FY19) to determine the length of stay in private day school on the child level. The average length of stay was calculated by age groupings and by autism designation. Additionally, JLARC staff analyzed expenditure data to calculate the age at which children first entered private day school between FY10 and FY19.

**Child and Adolescent Needs and Strengths Assessment (CANS) data**

The CSA program assesses children’s needs and strengths using a uniform assessment instrument called the Child and Adolescent Needs and Strengths Assessment, or CANS. The Office of Children’s Services (OCS) requires that local CSA programs administer a CANS assessment at least annually to any child who receives services funded through CSA program. The CANS assessment is a structured assessment instrument that provides numerical ratings of a child’s needs and strengths in six domains: (1) life functioning; (2) child strengths; (3) school; (4) child behavioral and emotional needs; (5) child risk behaviors; and (6) parent or guardian strengths and needs. Within each domain, children are assessed on several elements (Table B-3). For example, within the school domain, a child is assessed on school behavior, school achievement, and school attendance. A “0” rating on an element indicates that a child does not have problems in that element, a “1” rating indicates that limited problems exist in the area and intervention is not necessary, a “2” rating indicates that the child has moderate problems in the area and interventions should be introduced, a “3” rating indicates that the child has severe problems in the area and immediate and intensive interventions should be taken.

**TABLE B-3**  
**Rated elements within the school, child behavior, and risk domains of the CANS assessment**

| CANS domains: | School      | Child behavior              | Risk                       |
|---------------|-------------|-----------------------------|----------------------------|
| Elements:     | Behavior    | Psychosis                   | Suicide risk               |
|               | Achievement | Impulsivity / hyperactivity | Self-mutilation            |
|               | Attendance  | Depression                  | Other self harm            |
|               |             | Anxiety                     | Danger to others           |
|               |             | Oppositional                | Sexual aggression          |
|               |             | Conduct                     | Runaway                    |
|               |             | Adjustment to trauma        | Delinquent behavior        |
|               |             | Anger control               | Fire setting               |
|               |             | Substance use               | Intentional misbehavior    |
|               |             | Eating disturbance          | Sexually reactive behavior |
|               |             |                             | Bullying                   |

SOURCE: Office of Children’s Services, “Virginia Child and Adolescent Needs and Strengths (CANS) Assessment Item and Ratings Definitions Manual,” June 2016.

To assess the intensity of needs presented by students placed in private day school, JLARC staff reviewed the ratings of these students on three domains on the CANS assessments: (1) school; (2) child behavior and emotional needs; and (3) child risk behaviors. These three domains were selected because they most closely assessed the types of reasons that special education directors described as being primarily responsible for private day school placements. JLARC staff counted the number of children enrolled in private day school who did not have a moderate or severe rating (“2” or “3”) on any element in the school, child behavior, or risk domain on their initial CANS assessment. These children without a moderate or severe ratings were considered to have lower intensity needs than children typically placed in private day school.

### ***December 1 child count, SOL test score, and graduation data***

JLARC staff collected and analyzed three data sets from the Virginia Department of Education (VDOE) to assess the outcomes of children served in private day schools. These data sets were used to assess whether children who were placed in private day schools were achieving similar outcomes to children with similar disabilities that were in other placements (public schools, regional programs, etc.).

The first data set, the December 1 child count data was used to identify children that had received their special education services in a private day school anytime between FY10 and FY19. Additionally, the December 1 child count data was also used to identify a group of students to compare the private day school students against. The comparison group was defined as any child who: (1) had never been served in a private day school between FY10 and FY19; (2) had a disability identification of either autism, emotional disability, or other health impairment; and (3) was served in a special education setting for 100 percent of their school day.

The second data set, the SOL test score data set was used to compare the SOL participation and test scores for students in third through eighth grade on the reading and math assessments. The list of students in the private day school group and the comparison group from the December 1 child count data was used to create a list of students who would have taken a third through eighth grade reading and math assessment was created. This list was matched to the SOL test score data set. JLARC staff then calculated the percentage of students that passed the reading and math assessments by placement type.

The third data set, the federal graduation indicator data set was used to compare graduation outcomes (six years after first entering ninth grade) for students with similar disabilities across placement types. The list of students in the private day school group and the comparison group from the December 1 child count data was used to create a list of students who would have been in high school. This list was matched to the federal graduation indicator data set. JLARC staff then calculated the percentage of students who graduated, completed high school, or dropped out of high school by placement type.

### ***CSA non-mandated funding***

JLARC staff used existing data on the use of non-mandated funding in FY19 to estimate the additional cost of serving all non-mandated youth in the state. Using data from OCS's LEDRS system, staff identified the number of non-mandated children served in each locality. This number was used to calculate a ratio of non-mandated to mandated children (excluding children in education mandate types). This ratio was averaged by locality to create a statewide ratio of non-mandated to mandated children. For each locality that did not serve non-mandated children, a predicted number of non-mandated children was generated using this ratio and the number of mandated children they currently serve.

To estimate the additional cost of serving all non-mandated children, JLARC staff compared each locality's cost for serving non-mandated children with its cost for serving mandated children (excluding children in education mandate types). This comparison was used to estimate how much a locality who does not currently serve non-mandated children would spend on these clients, taking into account the relative cost of services in their locality. The estimated spend per child in these localities was then multiplied by the predicted number of new non-mandated cases and summed to create an estimate

for the additional cost of serving all non-mandated youth. To estimate the percentage of the cost that would be funded by localities, each locality's additional cost was multiplied by its local match for community-based services (the services most frequently received by non-mandated youth) and summed.

### ***Children in private day placements receiving other CSA services***

Using LEDRS data from FY17 through FY19, JLARC staff identified children in private day placements through CSA who also received other CSA-funded services, like outpatient therapy or intensive in-home services. Children's services were identified using the service placement types in LEDRS. JLARC staff then used data collected from the CSA coordinator survey to identify how localities handle FAPT reviews for children receiving private day cases—full FAPT review, expedited FAPT review, or no FAPT review for children in private day placements. JLARC staff then compared the proportion of children in private day placements who receive other services by the type of FAPT review required by their locality.

### ***Analysis of the impact of CSA-funded services on children's outcomes***

The initial population for the analysis was about 17,000 children who received CSA-funded services between FY17 and FY20 and whose LEDRS data could be matched to their CANS assessments. (Because LEDRS and CANS use different child identifiers, matching children in the two datasets is a multi-step process. OCS staff performed the matching and created a new identifier for children matched in the two data systems.) The analysis focused mainly on three subgroups of children; those who: were enrolled in private day school; received community-based services; or were in residential care. For each of these subgroups, the analysis only included children who had received those services for at least six months. The analysis was further restricted to children whose most recent CANS assessment was at least six months later than their initial CANS assessment. The resulting sample sizes were about 4,000 students in private day school, 6,500 children receiving community-based services, and 3,000 children in residential care.

LEDRS data was used to calculate the total months of services received (and total CSA payments made) between the initial CANS assessment and the most recent CANS assessment. CANS data was used as the outcomes for the analysis. The most recent scores for each item in three CANS domains—school (3 items), child behavioral/emotional needs (10 items), and child risk behaviors (11 items)—were used as outcome variables. For each item, scores ranged from 0 to 3, with 0 meaning no evidence of a need and 3 meaning a severe level of need.

For each item in each CANS domain, the analysis compared the change between the initial and most recent CANS score, based on the number of months a service was received. So, for example, the impact estimates address the question: Do additional months of private day school (or community services, or residential care) lead to a larger improvement in CANS scores?

A linear regression model was used to estimate impacts, to control for other factors that could influence the change in outcomes. The model was estimated at the child-level, with one record per child. In each regression, the dependent variable is the most recent CANS score on a particular item within a domain. The independent variable of primary interest is the number of months the child

received the service. The model included other variables to control for differences between children who received relatively more or fewer months of a service. The control variables are: the child's initial CANS score, gender (1 for female), race (1 for white), age at the initial CANS assessment, a DSM-V indicator (yes/no), months between the initial and most recent CANS assessment, average CSA payment per month, and the average number of CSA-funded services received. Impact estimates were reported as the effect on the outcome variable of receiving 12 months of a particular service.

## **Review of national research and experiences of other states**

JLARC staff reviewed research from a variety of sources, such as other government agencies and non-profit groups. JLARC staff reviewed documents from the Centers for Disease Control and Prevention (CDC), Center for Medicaid and Medicare Services (CMS), Child Adolescent Health Measurement Initiative (CAHMI), and Health Resources and Services Administration (HRSA) that describe the prevalence of adverse childhood experiences (ACEs), trauma, and childhood mental disorders.

## **Document and policy review**

JLARC staff reviewed numerous other documents and literature pertaining to CSA, private day schools, and services for at-risk youth in Virginia and nationwide, such as:

- Virginia budget language, code sections, regulations, and policies related to eligibility, administration, funding, and structure of the CSA program;
- local CSA program regulations and policies about CSA program administration; utilization review and utilization management; the referral, FAPI, and service authorization process; and contracting policies and samples of contracts;
- OCS guidance and training documents, including those related to utilization review and utilization management, the use of non-mandated funds, and determining eligibility for CSA services;
- reports from other Virginia state agencies about children's services;
- Virginia laws, regulations, and policies related to licensing private day schools, the use of restraint and seclusion in private day schools, the use of restraint and seclusion in public schools, the roles of the SEC, SLAT, and OCS, and allocations of non-mandated and administrative funding;
- prior studies and reports on the CSA program, such as those by JLARC, the Commission on Youth, the Virginia Department of Education, the Office of Children's Services, and Public Consulting Group (PCG);
- other states' budgets, laws, regulations, and policies;
- documentation from inspections that VDOE staff conducted at two private day schools in 2018; and
- a random sample of 10 individualized education plans (IEPs) for students placed in private day schools.

## **Appendix C: Impact of the COVID-19 pandemic on private day schools**

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Because of the evolving nature of the COVID-19 pandemic while JLARC staff reviewed CSA and the use of private day schools, staff did not seek to reach definitive conclusions about the use of private day schools in the 2019–20 school year, the quality or effectiveness of services offered by private day schools during the pandemic, or the quality or sufficiency of the Office of Children’s Services’ (OCS) guidance. Throughout the research for this study, JLARC staff kept up-to-date on guidance offered by OCS, and discussed with stakeholders how private day schools, local CSA programs, and school districts were approaching the delivery of services to students through the pandemic.

### **Private day schools offered virtual services during the school shutdown**

Private day schools, along with all other K–12 schools in Virginia, discontinued in-person classes in early March 2020 through the end of the school year. All K–12 schools, including private day schools were closed temporarily on March 12, 2020 as a result of the governor’s initial state of emergency declaration. On March 24, 2020, the governor issued Executive Order 53, which closed all K–12 schools through the remainder of the school year.

Between March 12 and the end of the school year, most private day schools offered virtual services to their students. All of the private day schools responding to JLARC staff’s questionnaire report offering online virtual classes, online educational materials and activities, detailed lesson plans and activities, and educational materials delivered to students’ homes. Additionally, many schools also reported offering phone-based instruction, counseling, and coaching with parents and students. Although, private day schools report offering these services, parents interviewed by JLARC staff indicated that the quality and intensity of these services varied among schools, and virtual services did not match the quality and intensity of in-person services.

### **CSA programs took different approaches to tuition payments, creating budgetary stress for private day schools**

When schools were initially shutdown in March, many CSA programs discontinued or reduced tuition payments to private day schools while schools were closed for in-person services. These CSA programs determined that because private day schools were not providing in-person services, full tuition rates should not apply. Additionally, some CSA programs expressed concerns over whether OCS would reimburse the state share of full tuition payments for virtual services.

On March 30, OCS and the Virginia Department of Education (VDOE) issued guidance that left the decision on whether and how to pay for private day school services to local CSA programs. This joint guidance document indicated that the state match funds would be provided for tuition payments to private day schools for virtual services. However, the document indicated that local CSA programs had discretion on whether to pay private day school tuition and whether partial tuition rates may be appropriate for virtual private day school services.

Many local CSA programs resumed making full tuition payments after the first month of the school shutdown. The OCS and VDOE guidance appeared to alleviate local concerns about whether the state match would be available for virtual services. Additionally, many local school divisions successfully appealed to local CSA programs to resume full tuition payments to ensure that their students continued to receive virtual educational services. However, private day schools reported that some local CSA programs continued to pay partial tuition payments through the remainder of the school year.

Private day schools report that the pandemic's effects have created budgetary stress, which in some cases has resulted in employee layoffs or furloughs. Private day schools report that they lost revenue as some local CSA programs reduced payments for virtual services. Simultaneously, the private day schools were facing increased expenses as they attempted to adjust to providing virtual services. Many schools reported having to purchase additional technology, such as additional laptops and new software packages, to provide virtual services. Some schools also reported purchasing personal protective equipment and cleaning services for their facilities. This budgetary stress caused at least 24 private day schools to either furlough staff or layoff staff. At least two private day schools in the state have closed as a result of the budgetary stress caused by the pandemic.

### **Many private day schools have returned to some in-person services for the 2020–21 school year**

Many private day schools have begun to offer at least some in-person services for the new school year. Private day schools have implemented precautions to ensure health and safety as they resume in-person services while the pandemic is ongoing. These precautions have included:

- requiring mask wearing for all individuals in their facilities, including all students and staff;
- following Centers for Disease Control and Prevention (CDC) guidelines for cleaning and disinfecting facilities;
- checking the temperature of all individuals entering facilities;
- maintaining social distancing, when possible;
- limiting visitor access to facilities; and
- implementing modified schedules to limit the number of individuals in facilities at one time.

## Appendix D: Children's Services Act service definitions

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The Office of Children's Services (OCS) has published a list of definitions for 40 different services children in CSA commonly receive. CSA still pays for services that are not on the list, and the purpose of the list is to ensure CSA programs and private providers use the same name for the same service. This appendix includes only services referenced in this report. The definitions in this appendix are from the OCS list and have been edited for clarity.

Acute psychiatric hospitalization: Inpatient behavioral health services delivered in a hospital setting that are generally short term and in response to a severe, acute psychiatric condition.

Assessment and evaluation: Service conducted by a qualified professional using a standardized measurement tool or series of tools to make recommendations, provide diagnosis, identify strengths and needs, and describe the severity of the symptoms.

Crisis intervention: Mental health services, available 24 hours a day, seven days per week, to provide assistance to people experiencing acute mental health crisis that requires immediate clinical attention. Crisis intervention is intended to prevent exacerbation of a condition; to prevent injury to the individual or others; and to provide treatment in the least restrictive setting.

Crisis stabilization: Direct mental health services to people in the community (i.e., not inpatient hospitalization) who are experiencing an acute psychiatric crisis that may jeopardize their current community living situation. The goals are to avert hospitalization or re-hospitalization; provide an environment as close to normal as possible that also ensures the person's safety; stabilize individuals in psychiatric crisis; and bring together the person's community support system, family members, and others for ongoing maintenance, rehabilitation, and recovery.

Family foster care homes: Foster care placement in a typical home environment with foster parents.

Independent living services: Services specifically designed to help adolescents make the transition to living independently as an adult. Services include training in daily living skills as well as vocational and job training.

Intensive in-home (IIH) services: Intensive, time-limited services like individual and family counseling, anger management, interpersonal skills training, and crisis intervention, that are provided in the home of a child who is at risk of being moved into an out-of-home placement or who is being transitioned to home from out-of-home placement because of documented clinical needs of the child.

Mentoring: Services with an appropriately matched, screened, and trained adult for one-on-one relationships. Services include meetings and activities on a regular basis intended to meet, in part, the child's need for involvement with a caring and supportive adult who provides a positive role model.

Outpatient services: Services like counseling, psychotherapy, medication management, and behavior management that are delivered in a clinical setting in the community (or sometimes in a child's home).

Respite: Service that provides short-term care, supervision, and support to youth to provide relief to the primary care giver while supporting the emotional, physical, and mental well-being of the youth and the family/guardian.

School-based mental health: Children's services for behavioral and emotional issues that are delivered in a school setting.

Therapeutic day treatment: Counseling and psychotherapy services combined with medication, education, and mental health treatment offered in programs of two or more hours per day with groups of children and adolescents.

Trauma-informed services: Services based on increased understanding of the role of trauma in children's development and well-being. Most types of services children receive can be trauma-informed based on the training of the provider and how the service is delivered.

Utilization review: Activities that provide oversight of purchased services, including review of IFSPs, review of services delivered by providers, review of a child or youth's progress toward goals, and the provision of recommendations for service planning and revision of service plans/goals.

Wraparound services: In CSA, services not required by a child's IEP but provided to a child through CSA to keep the student out of a more restrictive placement.

## Appendix E: Private day school finance questionnaire

JLARC staff used a questionnaire to collect financial data from the private special education day schools. The questionnaire requested high-level data on each school's revenues and expenditures, tuition rates, staffing levels, and enrollment. The questionnaire also asked the schools how the pandemic affected their services and finances. Appendix C of this report describes the impact the pandemic had on school operations and finances, as reported by private day schools.

### Participation in the private day school finance questionnaire

Five schools reviewed a pilot version of the questionnaire and provided feedback, which resulted in changes to the questionnaire. The five schools that reviewed the pilot version of the questionnaire were: (1) Elk Hill Schools; (2) Faison Center; (3) Hughes Center; (4) Minnick Schools; and (5) Rivermont Schools.

Out of 85 private day schools in Virginia, 68 private day schools submitted responses to the questionnaire—an 80 percent response rate (Table E-1 and E-2). The financial questionnaire was distributed and collected from private day schools in June and July 2020. Many schools reported that their staff and resources were stretched during this timeframe because of pandemic-related planning and budget cuts, and some schools that did not submit financial data indicated that these factors prevented them from responding.

**TABLE E-1**  
**Private day schools that submitted responses to the JLARC questionnaire**

| School name                                | Campus location |
|--|-----------------|
| 1. Alternative Paths Training School       | Alexandria      |
| 2. Alternative Paths Training School       | Fredericksburg  |
| 3. Alternative Paths Training School       | Manassas        |
| 4. Alternative Paths Training School       | Stafford        |
| 5. Bear Creek Academy                      | Cumberland      |
| 6. Believe-N-U Academic Development Center | Prince George   |
| 7. Blue Ridge Educational Center           | Warren          |
| 8. BREC Academy                            | Petersburg      |
| 9. Building Blocks                         | Danville        |
| 10. Charterhouse Schools                   | Richmond City   |
| 11. Charterhouse Schools                   | Shenandoah      |
| 12. Dominion Academy                       | Henrico         |
| 13. Dominion Academy                       | Norfolk         |
| 14. East End Academy                       | Newport News    |
| 15. Elk Hill Schools                       | Charlottesville |
| 16. Elk Hill Schools                       | Goochland       |
| 17. Elk Hill Schools                       | Staunton        |
| 18. Faison Center                          | Henrico         |
| 19. Faison Center                          | Newport News    |
| 20. Gateway Private Schools                | Stafford        |
| 21. Gateway Private Schools                | Gloucester      |

## Appendixes

|     |                               |                 |
|-----|-------------------------------|-----------------|
| 22. | Gateway Private Schools       | Westmoreland    |
| 23. | Gladys H. Oberle Scholl       | Fredericksburg  |
| 24. | Grafton Schools               | Clarke          |
| 25. | Grafton Schools               | Chesterfield    |
| 26. | Grafton Schools               | Winchester      |
| 27. | Helping Hands, Inc.           | Stafford        |
| 28. | Hopetree Academy              | Salem           |
| 29. | Hughes Center                 | Danville        |
| 30. | Keys Academies                | Augusta         |
| 31. | Keys Academies                | Culpeper        |
| 32. | Keys Academies                | Charlottesville |
| 33. | Lafayette School              | Fluvanna        |
| 34. | Minnick Schools               | Bristol         |
| 35. | Minnick Schools               | Harrisonburg    |
| 36. | Minnick Schools               | Roanoke County  |
| 37. | Minnick Schools               | Wise            |
| 38. | Minnick Schools               | Wise            |
| 39. | Minnick Schools               | Wytheville      |
| 40. | New Vistas School             | Lynchburg       |
| 41. | Northstar Academy             | Henrico         |
| 42. | Phillips School               | Fairfax County  |
| 43. | Phillips School               | Fairfax County  |
| 44. | Phillips School               | Loudoun County  |
| 45. | Pygmalion School              | Staunton        |
| 46. | Rivermont Schools             | Covington       |
| 47. | Rivermont Schools             | Mecklenburg     |
| 48. | Rivermont Schools             | Danville        |
| 49. | Rivermont Schools             | Fredericksburg  |
| 50. | Rivermont Schools             | Dinwiddie       |
| 51. | Rivermont Schools             | Fairfax County  |
| 52. | Rivermont Schools             | Hampton         |
| 53. | Rivermont Schools             | Lynchburg       |
| 54. | Rivermont Schools             | Lynchburg       |
| 55. | Rivermont Schools             | Lynchburg       |
| 56. | Rivermont Schools             | Roanoke City    |
| 57. | Rivermont Schools             | Roanoke City    |
| 58. | Rivermont Schools             | Lexington       |
| 59. | Rivermont Schools             | Virginia Beach  |
| 60. | St. Joseph Villas Schools     | Henrico         |
| 61. | St. Joseph Villas Schools     | Henrico         |
| 62. | St. Joseph Villas Schools     | Henrico         |
| 63. | The Aurora School             | Loudoun         |
| 64. | The Kellar School             | Fairfax County  |
| 65. | The LEAD Center               | Hopewell        |
| 66. | Virginia ABC School           | Franklin County |
| 67. | Virginia Institute for Autism | Charlottesville |
| 68. | Virginia Institute for Autism | Charlottesville |

**TABLE E-2**  
**Private day schools that did not respond to the JLARC questionnaire**

| School name                                 | Campus name     |
|---|-----------------|
| 1. Accotink Academy                         | Fairfax County  |
| 2. Blue Ridge Autism and Achievement Center | Roanoke County  |
| 3. Blue Ridge Autism and Achievement Center | Lexington       |
| 4. Blue Ridge Autism and Achievement Center | Lynchburg       |
| 5. CARD Academies                           | Alexandria      |
| 6. CARD Academies                           | Stafford        |
| 7. CARD Academies                           | Loudoun         |
| 8. Educational Development Center           | Richmond City   |
| 9. Elite Academy                            | Spotsylvania    |
| 10. LIFE Academy                            | Franklin County |
| 11. Metropolitan Day School                 | Richmond City   |
| 12. Plan Bee Academy                        | Chesapeake      |
| 13. Shenandoah Autism Center                | Covington       |
| 14. Spiritos School                         | Chesterfield    |
| 15. The Auburn School                       | Fairfax County  |
| 16. The New Community School                | Richmond City   |
| 17. Transforming Youth N2 Greatness         | Essex           |

Note: Some schools indicated that pandemic-related resource constraints factors prevented them from responding.

### Private day schools staffing

Private day schools reported high staffing levels at their schools. Most schools employed a variety of staff that provide direct support to students, including teachers, in-class aides, social workers, counselors, qualified mental health professionals, and board-certified behavior analysts. The largest group of employees at most private day schools are in-class aides, who typically do not require any special training, education, or certification to perform the role (Table E-3).

**TABLE E-3**  
**Private day schools employ many types of staff to serve students**

| Staff type   | Minimum  | Median    | Maximum    |
|--|----------|-----------|------------|
| Teachers   | 1        | 7         | 28         |
| In-class aides   | 0        | 10        | 151        |
| Board-certified behavior analysts (BCBAs)                                | 0        | 1         | 13         |
| Other direct student support staff<br>(counselors, social workers, etc.) | 0        | 2         | 78         |
| Administrators   | 1        | 2         | 7          |
| Indirect support staff<br>(maintenance, custodial, finance)              | 0        | 1         | 14         |
| <b>Total number of staff</b>   | <b>4</b> | <b>23</b> | <b>224</b> |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Table shows range and median number of staff reported in each category across the 68 individual school campuses reporting to JLARC.

Salary ranges reported for private day school staff varied considerably (Table E-4). The salaries for teachers at private day schools ranged from a low of \$34,900 to a high of \$77,000, with a median salary of \$51,300. The widest salary range was reported for board-certified behavior analysts (BCBAs), with a range from \$42,000 to \$144,000.

**TABLE E-4**  
**Private day school staff salaries vary widely**

| Staff type   | Minimum  | Median   | Maximum   |
|--|----------|----------|-----------|
| Teachers   | \$34,900 | \$51,200 | \$77,000  |
| In-class aides   | \$20,000 | \$31,400 | \$50,600  |
| Board-certified behavior analysts (BCBAs)  | \$42,000 | \$70,000 | \$144,000 |
| Other direct student support staff<br>(counselors, social workers, qualified<br>mental health professionals) | \$27,000 | \$46,300 | \$74,000  |
| Administrators   | \$31,400 | \$77,300 | \$132,000 |
| Indirect support staff<br>(maintenance, custodial, finance)  | \$18,900 | \$35,000 | \$83,200  |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Table shows range and median staff salaries reported in each category across the 68 individual school campuses reporting to JLARC.

### Private day school size and staffing ratios

Most private day schools serve a small number of students. Private day schools reported student populations ranging from five students to 188 students, but the median private day school served 40 students. The small size of private day schools was cited by special education coordinators and private day school staff as one of the most important advantages of private day schools for students with challenging behaviors.

**TABLE E-5**  
**Small school size allows for small student-to-staff ratios**

| Staff type   | Minimum | Median | Maximum |
|--|---------|--------|---------|
| Teachers   | 2:1     | 7:1    | 24:1    |
| In-class aides   | 1:1     | 4:1    | 24:1    |
| Board-certified behavior analysts (BCBAs)  | 6:1     | 45:1   | 174:1   |
| Other direct student support staff<br>(counselors, social workers, qualified mental<br>health professionals) | 2:1     | 15:1   | 45:1    |
| Administrators   | 5:1     | 22:1   | 94:1    |
| Ratio of students to all student support staff   | 1:1     | 2:1    | 6:1     |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Ratios are not computed for indirect support staff because these staff do not directly provide support or services to students. Table shows range and median staff ratios, as calculated by JLARC staff using enrollment and staffing data reported by the private day schools, across the 68 individual school campuses reporting to JLARC.

Most private day schools reported having low student-to-staff ratios. These low student-to-staff ratios result from private day schools serving a low number of students with high staffing levels. While the overall ratio of students to staff is low, the ratios of students to teachers tends to be higher (Table E-5).

### Private day school tuition rates

Private day schools reported tuition rates that ranged from \$22,000 to \$97,000 annually. The median annual tuition rate reported by private day schools for the 2019–20 school year was \$54,000. Private day schools reported higher tuition rates for programs specializing in serving children with autism (Table E-6).

**TABLE E-6**  
Private day tuition rates are higher for autism-specific programs

| Private day school program type             | Minimum  | Median   | Maximum  |
|---|----------|----------|----------|
| Standard private day school programs        | \$22,000 | \$43,000 | \$86,000 |
| Autism-specific private day school programs | \$32,000 | \$64,000 | \$97,000 |
| All private day school programs             | \$22,000 | \$54,000 | \$97,000 |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Table shows range and median tuition rates reported across the 68 individual school campuses reporting to JLARC.

Private day school tuition rates varied in all regions of the state. Schools in the Southwest region of the state had the smallest range of tuition rates, and these schools also had the lowest maximum tuition rates. The low rates and lack of variation in the Southwest region is because few schools are located in this region of the state. The largest range of tuition rates was at schools located in the Shenandoah Valley region (Table E-7).

**TABLE E-7**  
Private day school tuition rates had significant variance in most regions of the state

| Virginia region   | Minimum  | Median   | Maximum  |
|-------------------|----------|----------|----------|
| Central Virginia  | \$32,000 | \$50,000 | \$80,000 |
| Northern Neck     | \$39,000 | \$69,000 | \$82,000 |
| Northern Virginia | \$36,000 | \$57,000 | \$86,000 |
| Southside         | \$34,000 | \$43,000 | \$75,000 |
| Southwest         | \$38,000 | \$39,000 | \$54,000 |
| Tidewater         | \$36,000 | \$52,000 | \$84,000 |
| Valley            | \$22,000 | \$54,000 | \$97,000 |
| Western Virginia  | \$35,000 | \$62,000 | \$76,000 |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Schools were categorized into regions using VDOE's superintendent's regions. Table shows range and median tuition rates reported across the 68 individual school campuses.

## Private day school finances

Private day schools collected most of their revenue from tuition payments made by local CSA programs. In 2019, private day schools reported that 95 percent of their revenue came from tuition payments made by CSA (Table E-8). Another 3 percent of the revenue collected by private day schools came from tuition payments made by sources other than CSA.

**TABLE E-8**

### Private day schools collect most of their revenue from the CSA program

| Expense                              | Percentage of revenues |
|--------------------------------------|------------------------|
| Tuition paid by CSA                  | 95.1%                  |
| Tuition paid by another public payer | 1.9%                   |
| Tuition paid by a private payer      | 0.9%                   |
| Grants                               | 0.6%                   |
| Donations                            | 1.0%                   |
| Other revenue sources                | 0.5%                   |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Sixty (68) schools responded to the questionnaire, but only 65 schools provided enough information to calculate their revenues, expenses, and profits in 2019. JLARC staff calculated the percentage of revenues for each category of revenue using data reported by the private day schools. The percentage of revenues was calculated in aggregate across all 65 private day schools' campuses.

Private day schools spend most of the revenue they collect on personnel costs. Approximately 70 percent of revenue collected by private day schools is spent on personnel costs, such as salaries, wages, and benefits. The costs associated with buildings, insurance, purchased services, and other routine operating expenses account for 24 percent of the revenue that private day schools collect. On average, private day schools collect a profit of approximately 6 percent (Table E-9).

**TABLE E-9**

### Personnel costs account for the largest share of private day school expenses

| Expense   | Percentage of revenues |
|---|------------------------|
| Personnel costs (salaries, wages, and benefits)               | 70%                    |
| Building (mortgage, rent, and maintenance)                    | 8%                     |
| Insurance   | 1%                     |
| Purchased services  | 3%                     |
| Other routine operating expenses (supplies, technology, etc.) | 12%                    |
| Profit  | 6%                     |

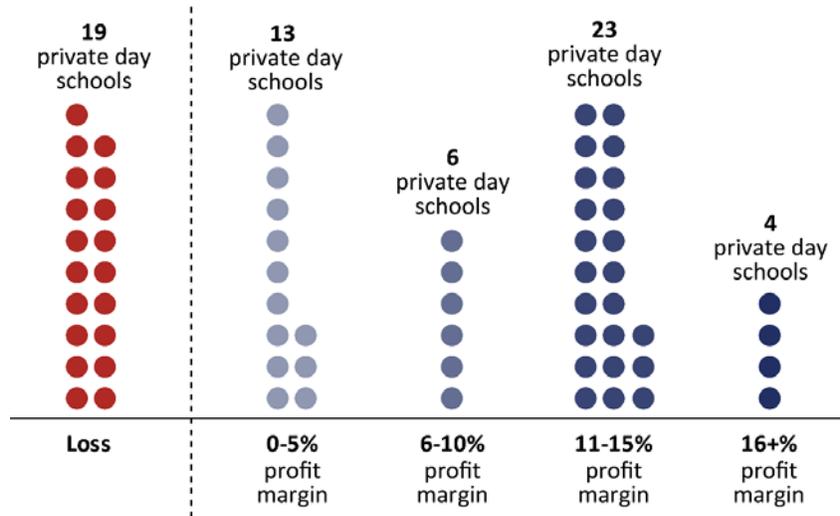
SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Sixty (68) schools responded to the questionnaire, but only 65 schools provided enough information to calculate their revenues, expenses, and profits in 2019. JLARC staff calculated the percentage of revenues for each category of expense using revenue and expenditure data reported by the private day schools. The percentage of revenues was calculated in aggregate across all 65 private day schools' campuses.

Most private day schools, 70 percent of those responding to the JLARC questionnaire, reported generating some profit in 2019 (Figure E-1). Over 40 percent (27 out of 65) of schools reported

generating a profit of 10 percent or more in 2019. Almost 30 percent (19 out of 65) of schools that reported financial information on the JLARC questionnaire reported an operating loss in 2019.

**FIGURE E-1**  
Over 70 percent of private day schools generated a profit in 2019



SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Sixty (68) schools responded to the questionnaire, but only 65 schools provided enough information to estimate their profit levels in 2019. JLARC staff calculated profit levels on the school level, not the campus level, because the questionnaire did not require schools to report financial data at the individual campus level, and then categorized campuses' profit levels according to the profit level calculated for their school overall. For example, if a school with three campuses had a profit of 2 percent, all three campuses were categorized in the "0-5% profit margin" group.

On net, private day schools responding to the JLARC questionnaire generated approximately \$11 million in profits in 2019, a 6 percent net profit (Table E-10). Nineteen (19) schools operated at a loss in 2019, losing approximately \$5 million in total in 2019. The 27 schools that had profits of 10 percent or more accounted for almost \$13 million of the total *gross* profits generated by private day schools.

**TABLE E-10**  
Private day schools generated approximately \$11 million in net profit in 2019

| Profit                            | Number of schools | Percent of private day school students served | Total estimated profit in 2019 (\$ millions) | Average profit |
|-----------------------------------|-------------------|---|--|----------------|
| Loss                              | 19                | 25%   | (\$5.0)                                      | (12%)          |
| 0-5% profit                       | 13                | 12%   | \$0.8  | 4%             |
| 6-10% profit                      | 6                 | 7%  | \$2.5  | 8%             |
| 11-15% profit                     | 23                | 37%   | \$11.2                                       | 14%            |
| 16+% profit                       | 4                 | 7%  | \$1.7  | 18%            |
| All reporting private day schools | 65                | 88%   | \$11.1                                       | 6%             |

SOURCE: JLARC private day school finance and tuition questionnaire responses.

NOTE: Sixty (68) schools responded to the questionnaire, but only 65 schools provided enough information to estimate their profit levels in 2019. The remaining 12 percent of private day school students attended schools that did not report data for the JLARC questionnaire.

## Appendix F: Local match rates for services

When a client receives a service through CSA, the state and the locality share the cost of that service according to the base match rate assigned to that locality. For example, Accomack County pays 23 percent of the cost of private day education for children living in Accomack, whereas Albemarle County pays 45 percent of the cost of private day education. These base match rates are based on the local matches of the various funding streams that were pooled when CSA was created and have not changed since CSA's inception.

Localities pay different match rates based on the services received. In 2008, two new “tiers” of local match rates were created to incentivize the use of less restrictive (and, typically, less costly) services. The General Assembly included budget language requiring localities to pay an additional 25 percent above their base match rate for residential services, while localities would pay 50 percent less for any community-based services. Thus, localities who effectively used community-based services would pay a lower effective match rate (the aggregate local match across all services in a given year) than localities who relied heavily on more intensive residential services. OCS publishes yearly reports on the impact of this tiered approach.

JLARC conducted analysis to examine the concordance of local base match rates with local ability to pay. The primary metric used to assess ability to pay was the Virginia Department of Education's composite index used to determine a local school division's match rate. Scores on the composite index were normalized and used to calculate predicted base match rates. The predicted rates were then compared to the actual rates (Table F-1).

**TABLE F-1**  
**Local match requirements may be misaligned for some localities**

|  | <b>Number of localities</b> | <b>Percentage of localities</b> |
|--|-----------------------------|---------------------------------|
| Locality is paying much less than predicted <sup>a</sup>     | 11                          | 9%                              |
| Locality is paying somewhat less than predicted <sup>b</sup> | 16                          | 12                              |
| Locality is paying about what is predicted <sup>c</sup>      | 29                          | 22                              |
| Locality is paying somewhat more than predicted <sup>b</sup> | 62                          | 48                              |
| Locality is paying much more than predicted <sup>a</sup>     | 12                          | 9                               |

SOURCE: JLARC analysis of VDOE composite index and CSA match rate data

<sup>a</sup> Indicates a 30% or greater difference between the predicted and actual match rates

<sup>b</sup> Indicates a difference of 10-30%

<sup>c</sup> Is defined as a difference of less than 10%

Misaligned match rates could be better aligned with a locality's ability to pay. While some local staff suggested that match rates should be reexamined, few identified a misalignment in match rates as a primary difficulty facing their program. The analysis conducted by JLARC shows that many localities may be overpaying relative to their ability to pay, but the median locality is overpaying by approximately 5 percent of the cost of services. JLARC conducted a similar analysis using the Commission on Local Government's local revenue capacity metric and identified similar conclusions.

## **Appendix G: Agency responses**

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As part of an extensive validation process, the state agencies and other entities that are subject to a JLARC assessment are given the opportunity to comment on an exposure draft of the report. JLARC staff sent an exposure draft of this report to the Office of Children’s Services, the Virginia Department of Education, the Secretary of Health and Human Resources, and the Secretary of Education.

Appropriate corrections resulting from technical and substantive comments are incorporated in this version of the report. This appendix includes response letters from the Office of Children’s Services, the Virginia Department of Education, and the Secretary of Health and Human Resources.



# COMMONWEALTH of VIRGINIA

Scott Reiner, M.S.  
Executive Director

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

November 4, 2020

Hal Greer, Director  
Joint Legislative Audit and Review Commission  
919 East Main Street  
Richmond, Virginia 23219

RE: Exposure Draft of the Review of the Children's Services Act and Private Special Education Day School Costs

Dear Director Greer:

Thank you for the opportunity to review the exposure draft of the JLARC Report on the Children's Services Act (CSA) and the funding and oversight of private special education programs. I want to note my appreciation for the collaborative manner in which the JLARC team approached the study and for the thorough research conducted and presented in the report.

The Office of Children's Services believes that children served through the CSA program deserve the most effective approaches. The program should be accountable for successful outcomes and the most responsible use of Virginia's resources.

Overall, the Office of Children's Services is supportive of the recommendations in the report. We do wish to offer a few specific comments.

**1. Use of CSA pool funds for services provided in the public school setting (Recommendations 3 and 4).**

The expansion of CSA state pool funds to support services to prevent students' placements in private educational settings or facilitate return to public school settings is highly likely to increase costs to the CSA program. Without prudent, objective parameters, the CSA program may become a significant secondary source of funds for use by public school special education services. The report indicates that criteria should be established to limit such expansion of the CSA to the most challenging students. However, there is a high likelihood that considerable variability and subjectivity would remain in the process, as school-based IEP teams make all determinations about services for these students.

**2. Require local CSA programs to serve children meeting non-sum sufficient eligibility criteria (Recommendation 11).**

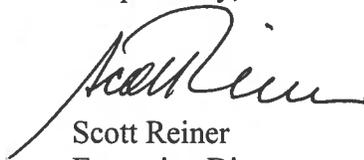
Access to CSA funded services for all statutorily eligible children, including those considered "non-mandated," is an outcome consistent with the CSA system of care philosophy. While there is no objection to the recommendation's intent, it is unclear how, even with statutory changes, OCS and the SEC could effectively require and enforce that local governments provide services to this population. Alternative approaches allowing OCS to manage the "protected" funds more flexibly, might be a more productive model leading to greater overall utilization of these funds by those localities willing to provide the local match. This could be accomplished through policy of the State Executive Council without any statutory change that would impose additional mandates on local government.

**3. Various recommendations to improve OCS oversight of local CSA programs and provide additional assistance to those programs (Recommendations 10, 13, 17, and 18).**

Each of the listed recommendations requires additional resources at OCS. Several of the other recommendations can be accomplished with existing resources.

On behalf of the Office of Children's Services, I appreciate the opportunity to work with JLARC on this review and look forward to improving the CSA program in light of the recommendations offered.

Respectfully,



Scott Reiner  
Executive Director



# COMMONWEALTH of VIRGINIA

James F. Lane, Ed.D.  
Superintendent of Public Instruction

DEPARTMENT OF EDUCATION  
P.O. BOX 2120  
RICHMOND, VIRGINIA 23218-2120

Office: (804) 225-2057  
Fax: (804) 371-2099

November 4, 2020

The Honorable Hal E. Greer, Director  
JLARC  
919 East Main Street  
Suite 2101  
Richmond, VA 23219

Dear Director Greer:

The Virginia Department of Education (VDOE) has reviewed the forthcoming Joint Legislative Audit and Review Commission (JLARC) report on the *Review of the Children's Services Act and Private Special Education Day School Costs* and thank your team for their diligence in this review. The report provides findings and recommendations that impact the VDOE. Therefore, the VDOE has provided technical edits to the exposure draft; and in this response seeks to provide broader feedback on the findings and recommendations.

The VDOE applauds the findings in the report regarding the need to increase resources and supports for students with disabilities in the Commonwealth. The report also points to the need to support intervening more intensively with younger students to help provide more inclusive opportunities within the public school environment. The number of students with disabilities is growing, as is the number of students with more severe disabilities; meanwhile state and local education budgets have been reduced. The VDOE agrees that additional state resources are needed to support placement of students in the least restrictive environment as required by the Individuals with Disabilities Education Act (IDEA) as well as the *Regulations Governing Special Education Programs for Children with Disabilities in Virginia*. These additional resources should prioritize the recruitment and retention of new and additional staff, such as in-class aides, to lower teacher to student ratios.

As identified in the report, local school divisions send more students to private day schools because of increasingly challenging behaviors and limited special education funding. The VDOE has similarly seen an increase in funding for the Regional Tuition Reimbursement Program due to growing student need. With constrained state and federal funds, more divisions have to rely more significantly on local funds to support an ever increasing list of needs and priorities in the pre-K-12 environment, including special education needs. Additionally, both state and local funding have had to fund the gap in promised federal funding from the IDEA. The result is that divisions are required to serve more students

with more severe disabilities, with fewer financial resources. The VDOE concurs that additional state investments are necessary to ensure all students are served effectively.

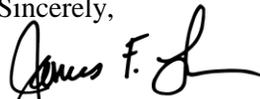
The VDOE has also reviewed and welcomes the proposed recommendations from the JLARC report related to the transfer of private school funding and oversight from CSA to VDOE with adequate resources and staff to support such a transition. Should this responsibility be transferred to VDOE, the department will need new resources to develop a plan, support the proposed funding mechanism, and develop a monitoring system to ensure accountability and efficacy as well as compliance with new reporting requirements. The VDOE is well-positioned to increase related technical assistance and existing professional development to local school divisions as they develop the capacity to support many of the recommendations in the report.

The VDOE also supports the use of the Regional Tuition Reimbursement Program (RTRP) to facilitate changes to funding student supports and services within public schools. The newly redesigned RTRP, has been refocused to provide students with intensive support needs in a less restrictive environment rather than placement in separate private settings. It should be noted though that if CSA funds are incorporated into Regional Tuition Programs, the General Assembly will need to address which disability categories should be included for funding eligibility. Currently regional program funding does not include all disability categories and Children's Services Act (CSA) funds are primarily focused on emotional or behavior needs.

The Department also echoes the importance of increased attention and funding to support the role of the CSA and local Community Policy and Management Teams (CPMT). The CSA and CPMT's have a responsibility to provide comprehensive wrap around services for individuals at risk in their communities and can be an integral component of support outside of the school setting and support for parents, families and caregivers.

Again, thank you for the opportunity to provide the perspective from the VDOE on the JLARC findings and recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "James F. Lane".

James F. Lane, Ed.D.

Superintendent of Public Instruction

JFL/SMH/jgh



# COMMONWEALTH of VIRGINIA

## Office of the Governor

Daniel Carey, MD  
Secretary of Health and Human Resources

November 4, 2020

Hal E. Greer, Director  
Joint Legislative Audit and Review Commission  
919 East Main Street, Suite 2101  
Richmond, VA 23219

Re: Exposure Draft of the Review of the Children's Services Act and Private Special Education Day School Costs

Dear Mr. Greer:

Thank you for the opportunity to review the exposure draft of the JLARC Report on the Children's Services Act (CSA) and the funding and oversight of private special education programs. This letter will confirm that I have reviewed the relevant report. I discussed my feedback with the Office of Children's Services (CSA) and my feedback is reflected in their response.

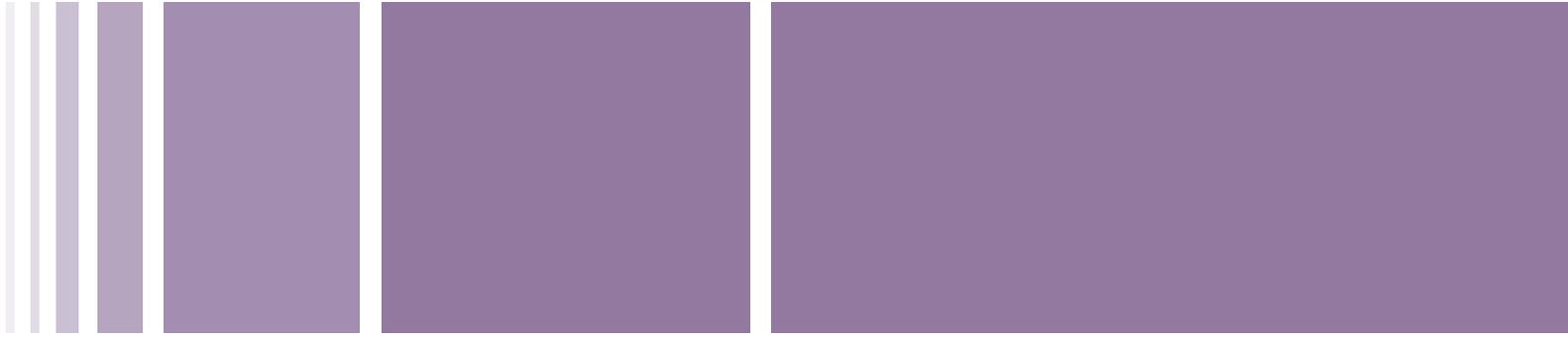
Please let me know if my office may be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Daniel Carey", with a long, sweeping underline.

Daniel Carey





[JLARC.VIRGINIA.GOV](http://JLARC.VIRGINIA.GOV)

919 East Main Street Suite 2101 Richmond, VA 23219