



COMMONWEALTH OF VIRGINIA

Commission on Youth

The Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities Year 2

October 20, 2015

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Study Mandate



- HJR 196 (Adams) directs the Commission on Youth (COY) to:
 - examine the use of Comprehensive Services Act for At-Risk Youth and Families* (CSA) and Medicaid funds for private day and private residential special education placements;
 - gather local and statewide data when youth are placed in these placements;
 - determine the feasibility and cost-effectiveness of more integrated alternatives to provide special education services to students including students with intellectual and developmental disabilities currently in segregated settings; and
 - consider any other matters appropriate to meet the objectives of this study.
- COY is to complete its meetings by 11/30/14 the first year and by 11/30/15 the second year and report recommendations prior to the 2016 General Assembly Session.

*The 2015 General Assembly enacted legislation (SB 850, Favola) to change the name of the Comprehensive Services Act for At-Risk Youth and Families to the Children's Services Act (CSA) to better reflect the goals of CSA.

Study Activities – Year 1 & 2



- Conduct literature reviews on other states' initiatives/policies
- Review federal statutes and regulations
- Review Virginia laws and regulations
- Review CSA Policies
- Collect data to review the use of special education placements
- Met with state and local officials, as well as key stakeholders
- Site visits
- Convene Advisory Group
 - June 15 Meeting
 - September 8 Meeting

Background



- Special education, pursuant to the IDEA is specially designed instruction provided at no cost to the parents in order to meet the unique needs of a child with a disability.
- IDEA guarantees a free appropriate public education (FAPE) to all eligible children with disabilities including:
 - identification and referral,
 - evaluation,
 - determination of eligibility,
 - development of an individualized education program (IEP),
 - determination of services, and
 - reevaluation.

Background



- Child with a disability – a child’s educational performance must be adversely affected due to the disability.
 - Intellectual Disability
 - Hearing impairment
 - Speech or language impairment
 - Visual impairment
 - Emotional disability
 - Orthopedic impairment
 - Autism
 - Traumatic brain injury
 - Other health impairment
 - Specific learning disability
 - Deaf-blindness
 - Multiple disabilities
 - Developmental Delay

Sources: Center for Parent Information and Resources. (2012); Virginia Department of Education. (September 16, 2014). *Fundamentals of Special Education*. Presentation to the Virginia Commission on Youth.

Background



- IDEA requires that students with disabilities be provided special education services in the least restrictive environment (LRE).
- To ensure that all students are educated in the least restrictive environment that is most appropriate for their individual needs, IDEA requires that school divisions have a continuum of alternative placement options.
- Removal from the regular education environment may occur only if the nature and severity of the disability is such that education in regular classes cannot be achieved satisfactorily using supplemental aids and services.
- Placements to educational settings outside the regular classroom are made by the IEP team, with parental involvement, once it has been determined that the student's unique educational needs require another environment.

Background



Continuum of Options

- Regular class – 80% or more
- Regular class – greater than 40% and less than 80%
- Regular class less than 40%
- Public Separate School
- Private Day School
- Public Residential School
- Private Residential School
- Hospital
- Correctional Facility
- Home-based

Background



Private Day and Residential Programs

- For students with significant disabilities, a private day or residential program may be considered the least restrictive environment.
- This decision is based on the child's IEP and reviewed annually.
- The Virginia Department of Education (VDOE) is responsible for licensing:
 - residential schools for children with disabilities in the Commonwealth, as specified by § 22.1-319 through § 22.1-335 of the *Code of Virginia*; and
 - private education programs for the children with disabilities, as specified by § 22.1-218 of the *Code of Virginia*.

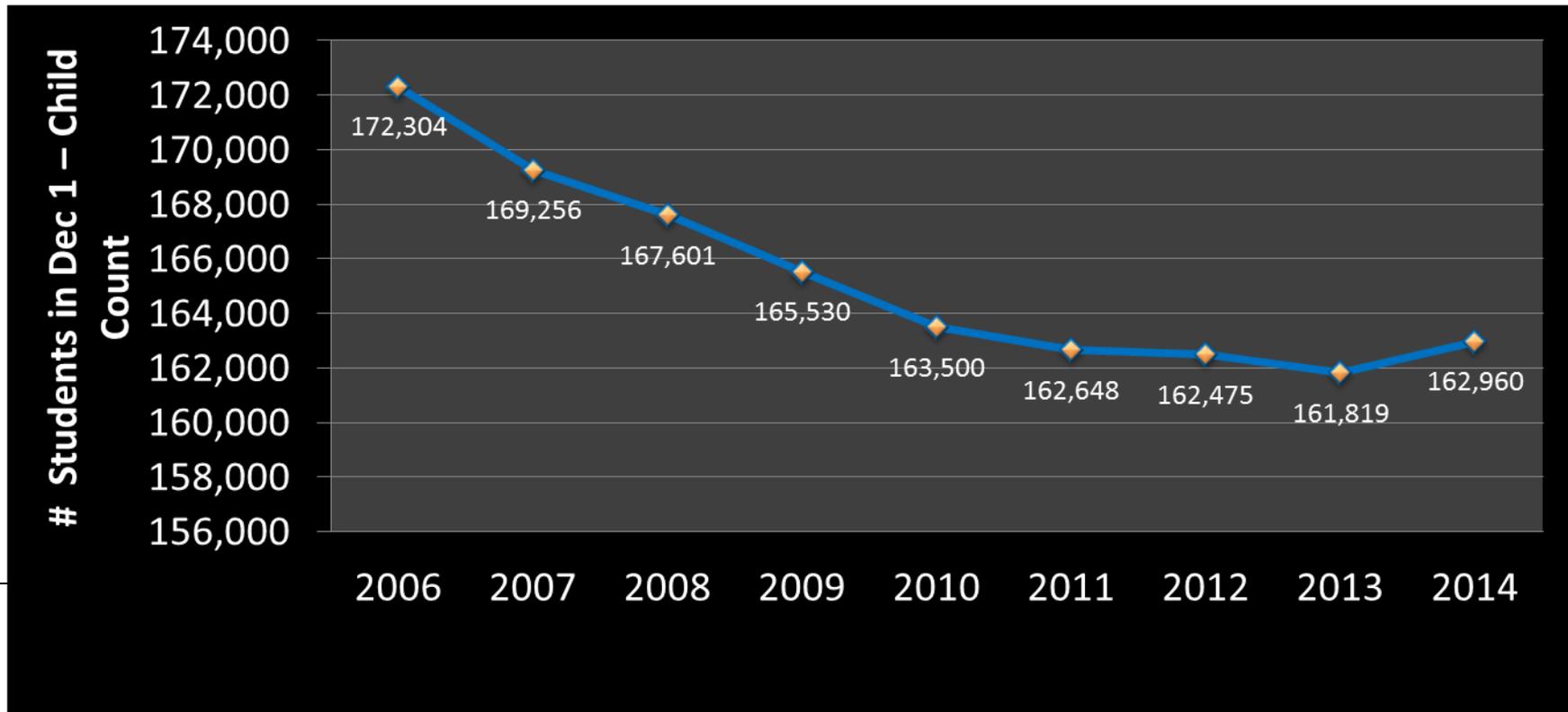
Special Education in Virginia



1.273 million students in Virginia

162,960 students with disabilities (SWD)

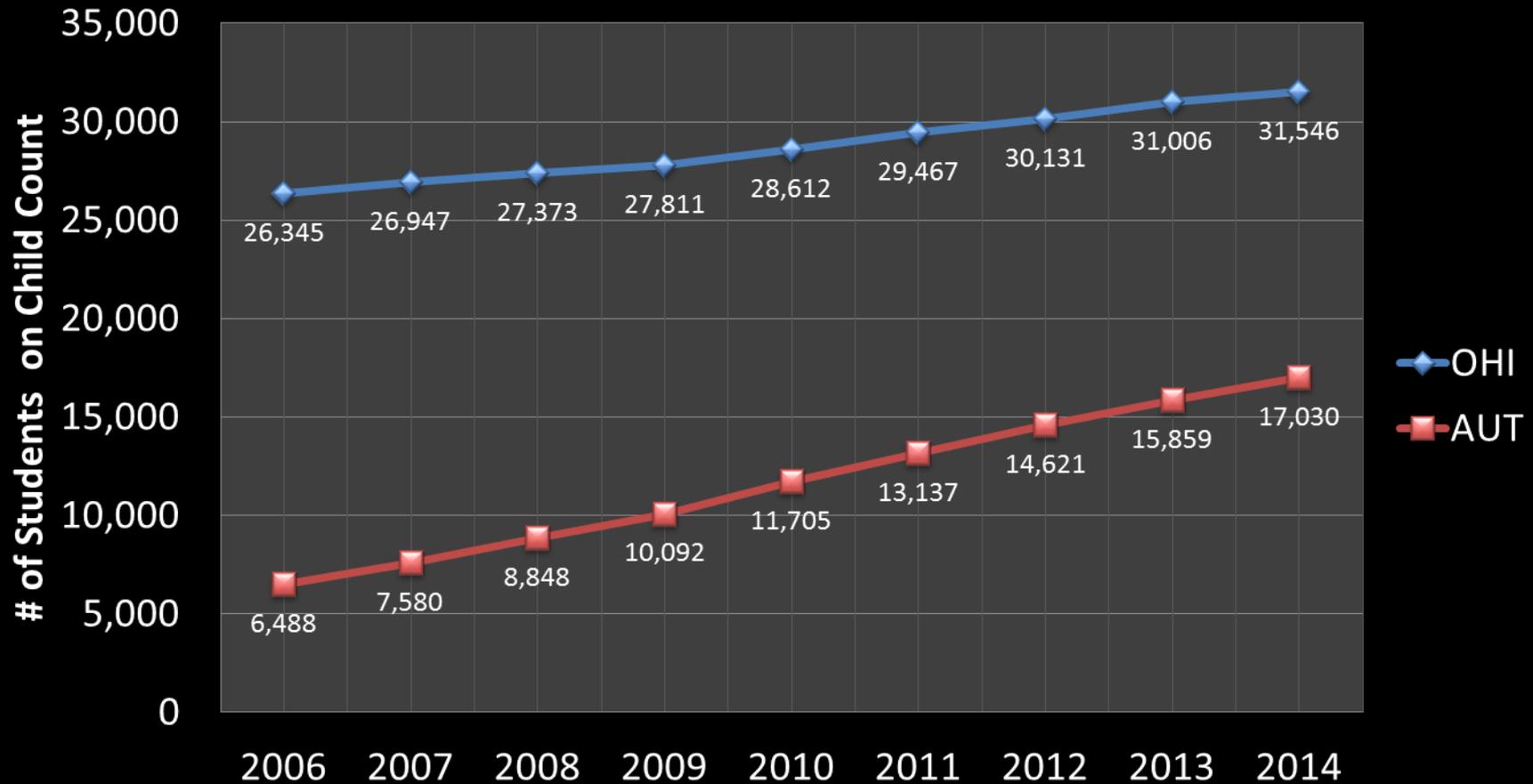
- Represents 12.3% of the overall school population
- Many SWD categories decreasing



Special Education in Virginia



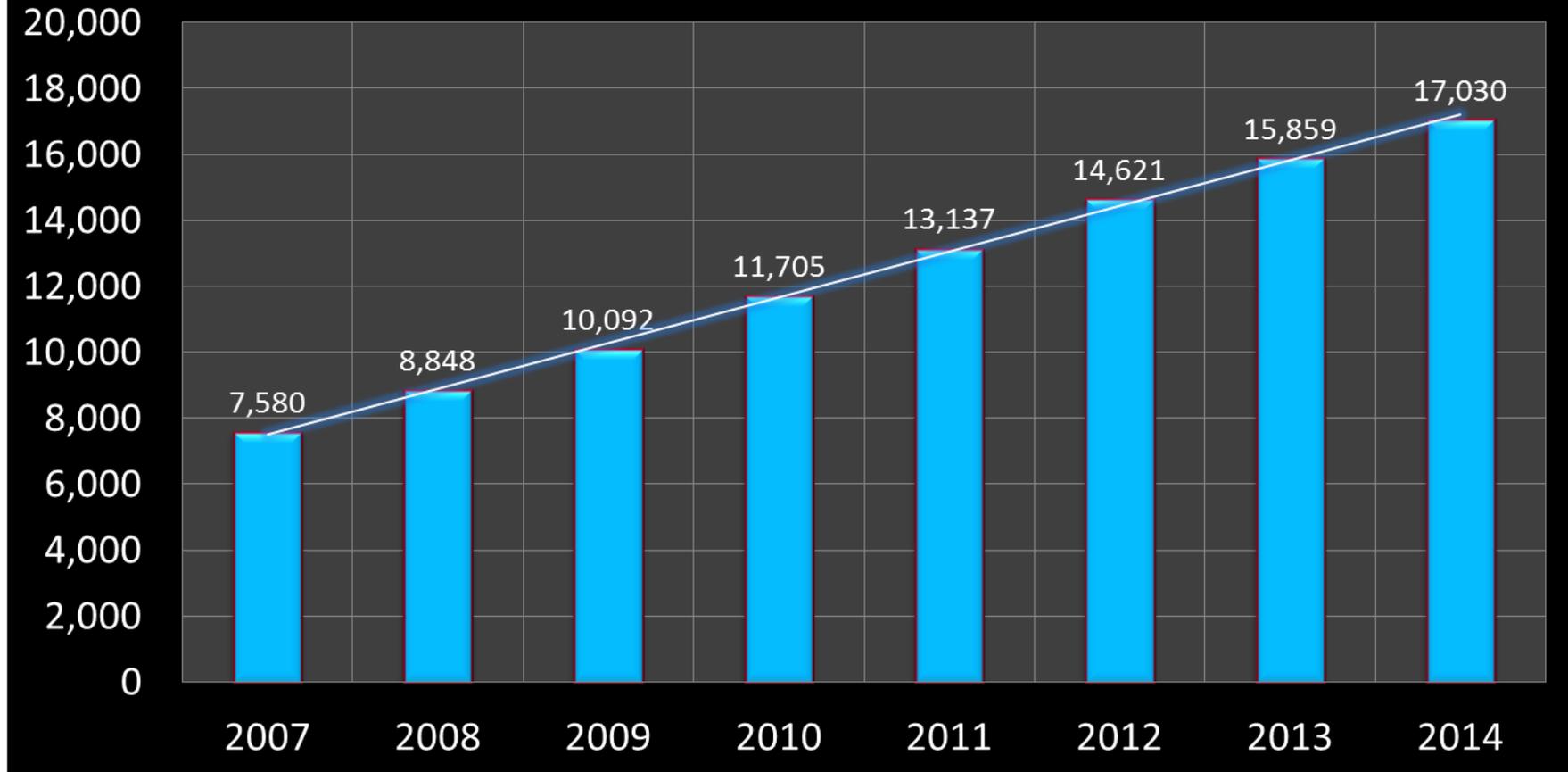
Fastest Rising Disability Populations



Special Education in Virginia



Primary Disability Label of Autism Spectrum Disorder



Special Education in Virginia



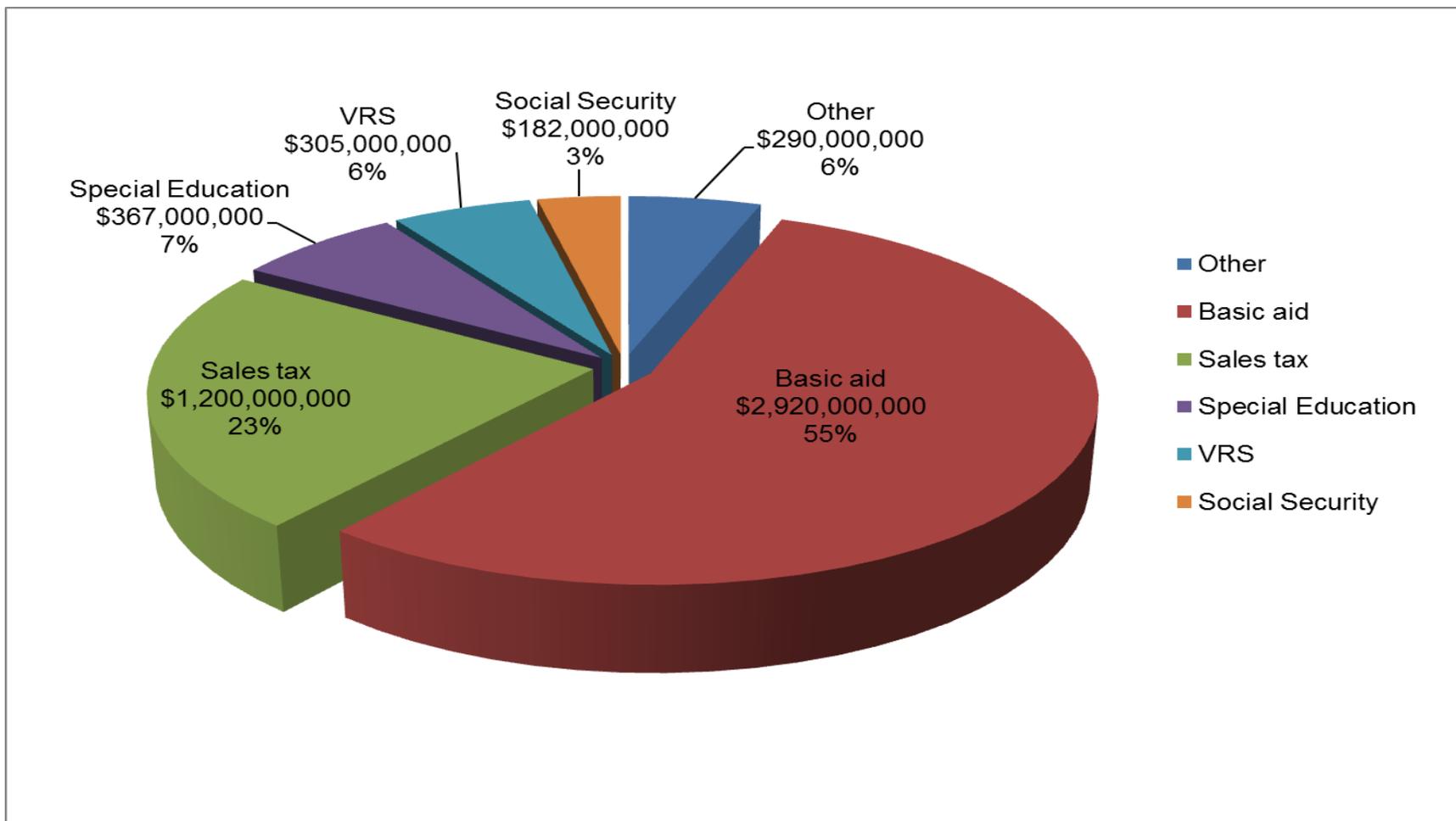
Funding

- State general funds support special education services in public school settings.
- For each child counted in the school division's average daily membership (ADM), an amount is paid to the school division for this purpose. This per-child amount is referred to as the special education add-on.
- The state's share of this cost is determined according to the locality's composite index of local ability to pay.

Special Education in Virginia



Payments by VDOE to School Divisions FY 2014



Special Education in Virginia



Funding

- State regional special education funds are also available to certain school divisions who claim regional tuition reimbursement for students served in regional special education programs (a local match is required).
 - Emotional Disabilities (ED), Deaf-Blindness (DB), Autism (AUT), Traumatic Brain Injury (TBI) - Only
- There are 11 approved regional tuition reimbursement programs.
- Regional programs are not considered out-of-school placements, as regional programs are public schools.

| Total FY 14 | State Share FY 14 | Local Share FY 14 | Children Served | Avg. Pupil Cost |
|---------------|-------------------|-------------------|-----------------|-----------------|
| \$129,893,418 | \$75,711,068 | \$54,182,350 | 4,464 | \$29,097 |

Special Education in Virginia



Funding

- CSA funds are used to fund private day school and residential placements for the purposes of special education.
 - If placement in a private day or residential program is necessary to provide special education and related services to a child with a disability, the program, including nonmedical care and room and board, shall be at no cost to the parents of the child. (34 CFR 300.104)
 - Local school divisions shall be responsible for payment of transportation expenses associated with implementing the child's IEP.

Special Education in Virginia



Funding

- CSA wrap-around funds for services for students with disabilities
- Funds community services to prevent a more restrictive placement
- Fall outside the area of responsibility of the schools
- Recommended by the Family Assessment and Planning Team (FAPT)
- \$2.2 million is earmarked for services.
 - Funding is allocated based on formula to requesting localities.
 - Localities are required to appropriate a local match.
 - While these funds are considered mandated, localities do not have to utilize these funds and many chose not to do so.

Special Education in Virginia



- Medicaid funds may be used to pay for health-related services provided under IDEA for students with an IEP.
 - Virginia school divisions enroll directly with the Department of Medical Assistance Services (DMAS) for the reimbursement of select health services for children with Medicaid or FAMIS coverage.
 - DMAS-covered services for children in special education are provided by the school division according to the child's IEP.
 - School divisions use local and state funds to draw down the federal Medicaid share.

Special Education in Virginia



Schools divisions' requirements for Medicaid reimbursement

- Services must be specified in the child's IEP
- Current license on file with VDOE for each service practitioner
- Signed provider agreement with DMAS
- Parent/guardian consent is required for schools to bill DMAS for any health-related services.
- Providers must comply with appropriate service provider qualifications.

Special Education in Virginia



Medicaid-covered services

- Physical therapy
- Occupational therapy
- Speech-language therapy
- Audiology
- Psychiatric, psychology, and mental health evaluations
- Nursing services
- Personal care
- Medical evaluations
- Specialized transportation

Special Education in Virginia



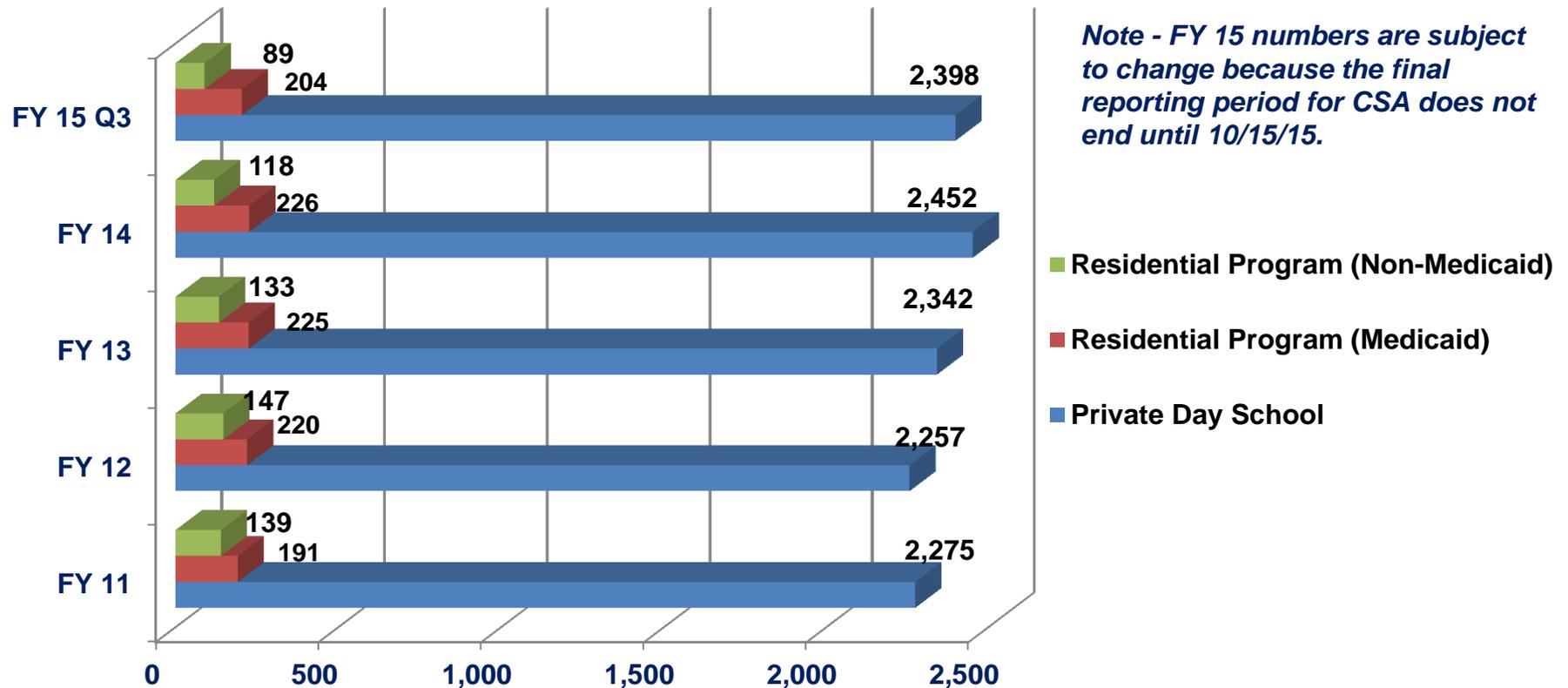
Medicaid Claims

- Medical and transportation claims are submitted and paid throughout the year.
- Claims must also be cost settled annually.
- The federal share is distributed 95% / 5% between school divisions and DMAS.
- School divisions are eligible for quarterly reimbursement for administrative activities to support the Medicaid program.
 - Examples of these activities include Medicaid outreach, facilitating applications for Medicaid programs, and translation related to Medicaid services.
 - The federal share is distributed 50% / 50% between school divisions and DMAS.
- DMAS reimbursed approximately \$24 million for the special education services and approximately \$3.9 million for administrative claims for FY 2015.

Special Education Services Under CSA



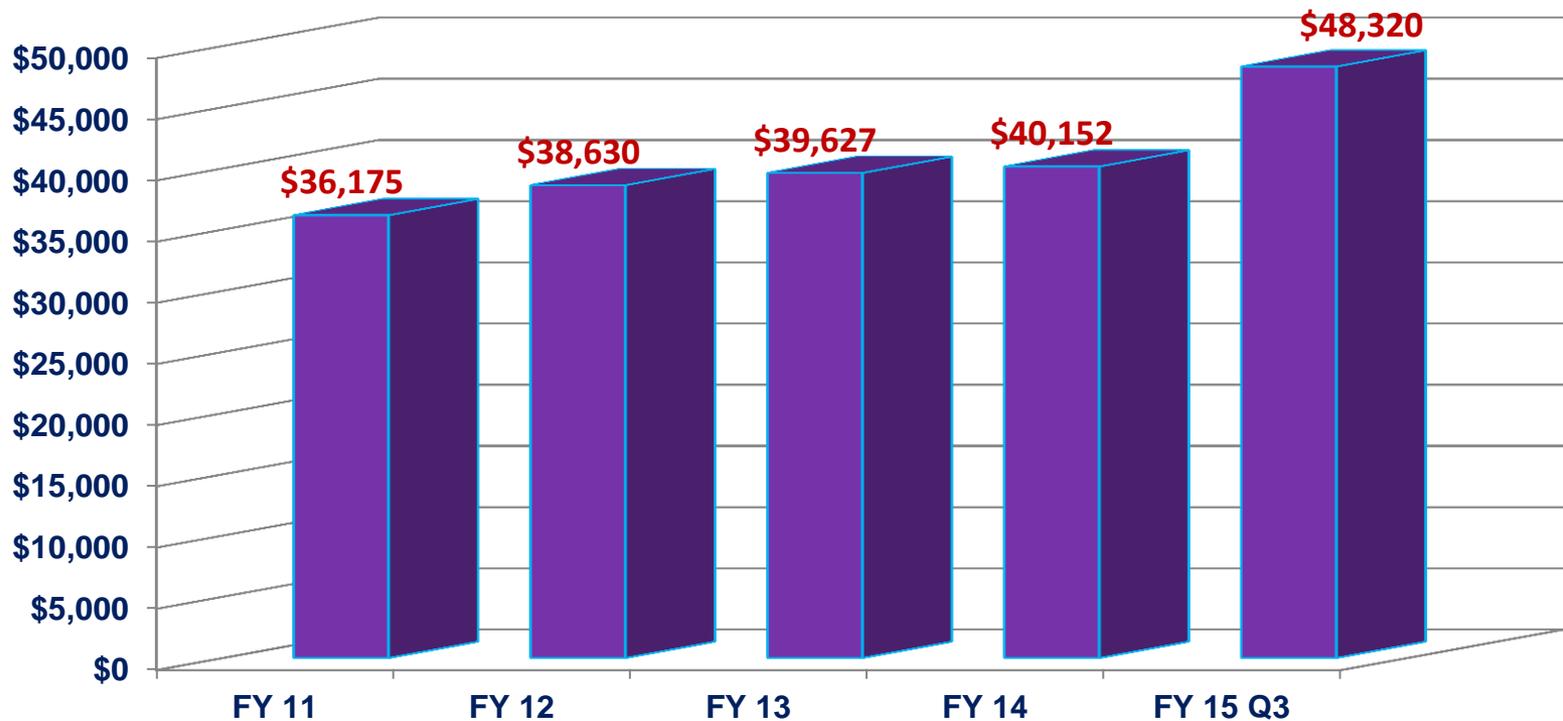
Number of Youth Served by Placement Type – Special Education Services by Fiscal Year



Special Education Services Under CSA



Annual Average Expenditure Per Child – Special Education Services By Fiscal Year (all service types)

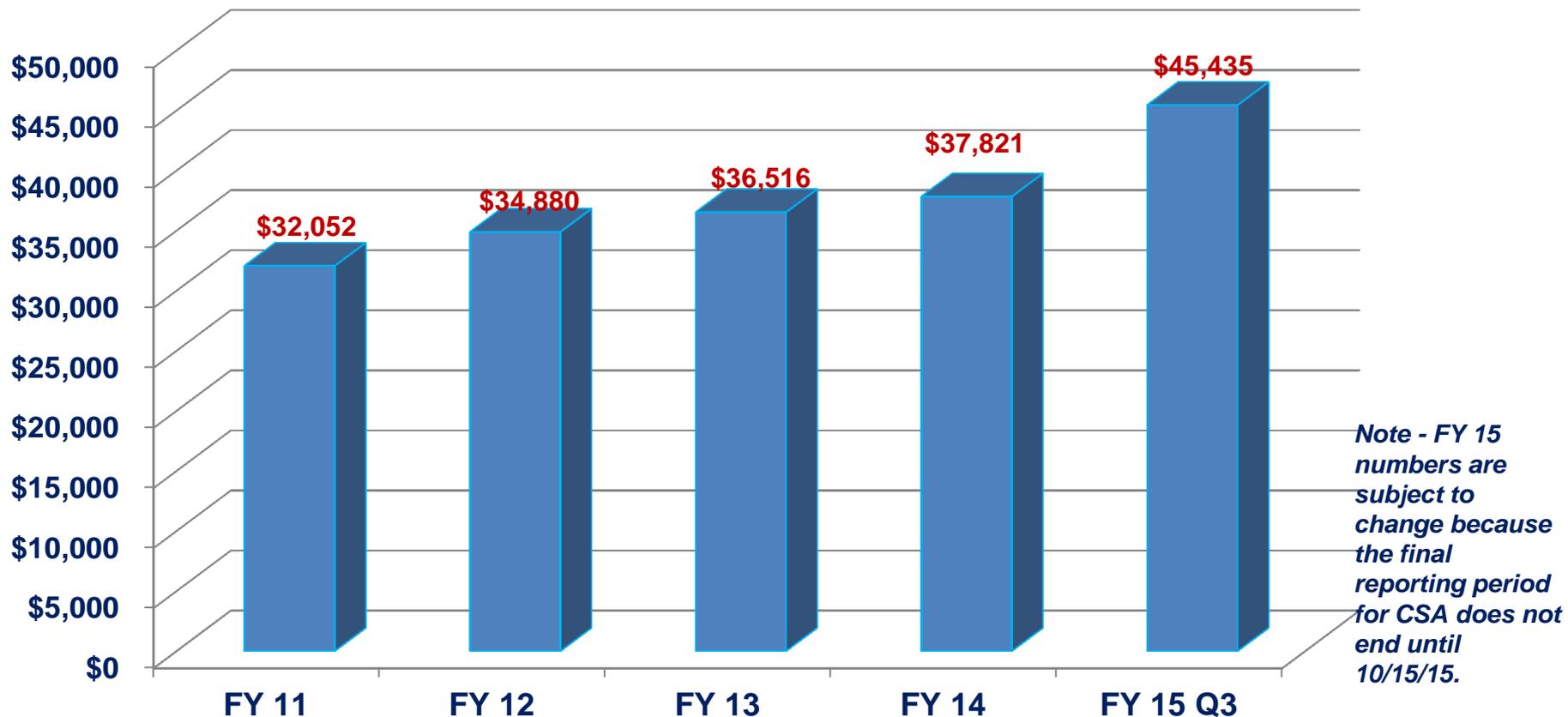


Note - FY 15 numbers are subject to change because the final reporting period for CSA does not end until 10/15/15.

Special Education Services Under CSA



Annual Average Expenditure Per Child – Private Day Placement By Fiscal Year

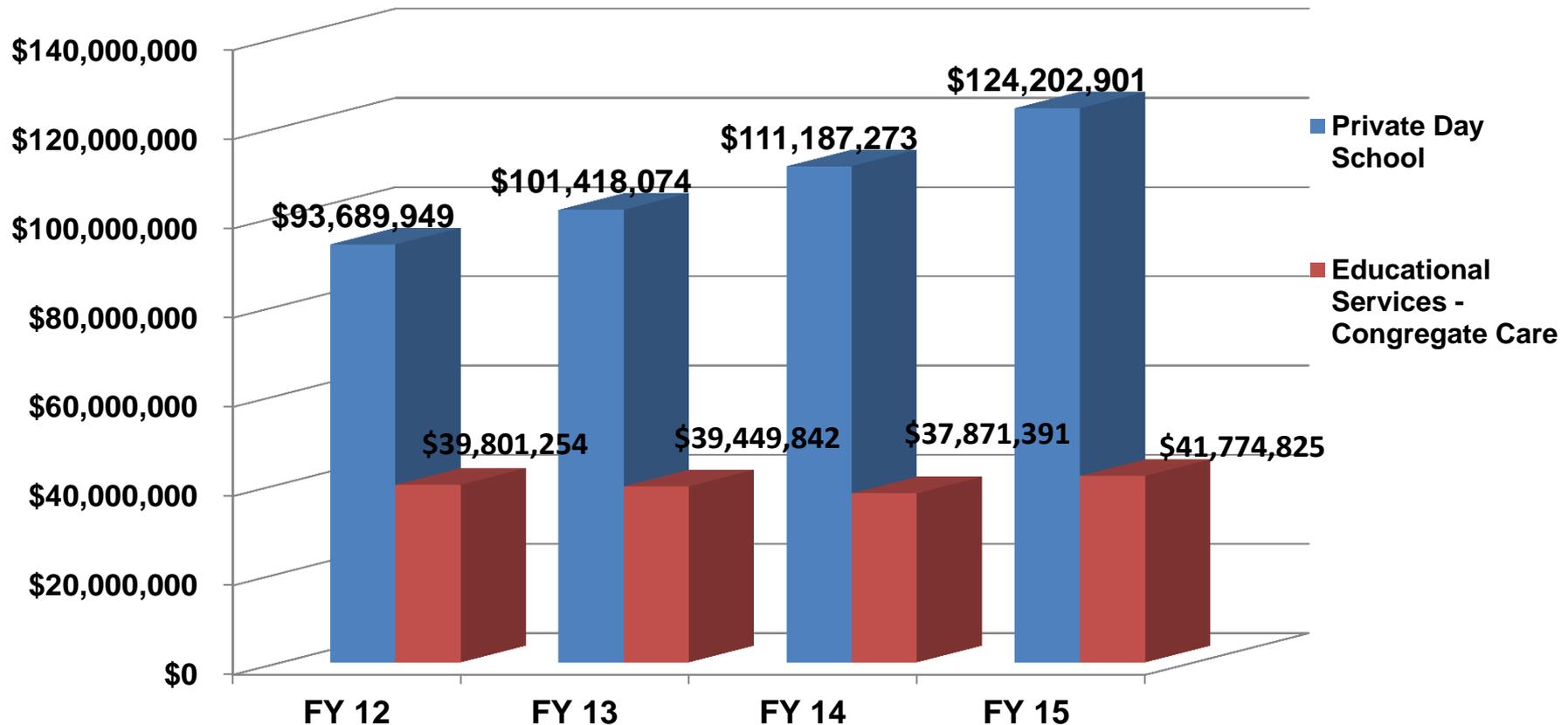


Special Education Services Under CSA

(cont.)



Net Expenditures by Placement Type – Special Education Services by Fiscal Year



Special Education Services Under CSA



Average Cost Per Child by Placement Type By Fiscal Year



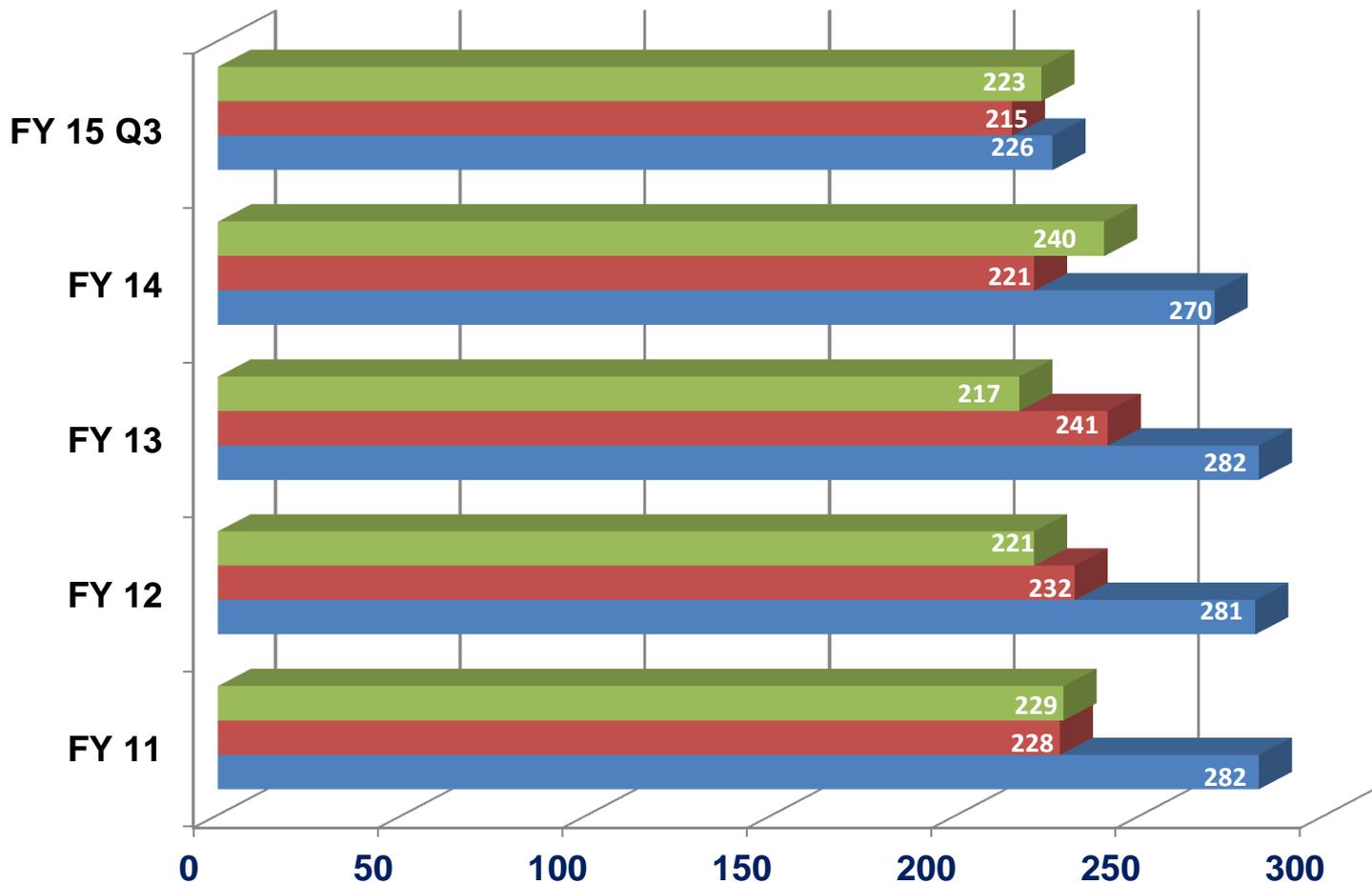
Note - FY 15 numbers are subject to change because the final reporting period for CSA does not end until 10/15/15.

- Private Day School
- Residential Program (Medicaid)
- Residential Program (Non-Medicaid)

Special Education Services Under CSA



Average Length of Stay (# of Days) by Placement Type by FY



Note - FY 15 numbers are subject to change because the final reporting period for CSA does not end until 10/15/15.

- Residential Program (Non-Medicaid)
- Residential Program (Medicaid)
- Private Day School

Key Findings



Virginia Education Expenditures Average Per Pupil Cost by Placement Setting FY 2014

| Placement Setting | Total Child Count | Avg. Per Pupil Cost |
|--------------------------|-------------------|---------------------|
| Public School | 158,262 | \$13,497 |
| Regional Program | 4,464 | \$29,097 |
| Private Day Placement | 2,452* | \$37,821** |
| Residential Non-Medicaid | 118* | \$33,129 |
| Residential Medicaid | 226* | \$55,408 |

Source: Virginia Department of Education. (June 15, 2015). *Special Education in Virginia*. Presentation to the Virginia Commission on Youth Advisory Committee on the Use of Federal, State, and Local Funds for Private Educational Placements of Students with Disabilities; Office of Comprehensive Services. (2014). *Special Education Services under the CSA, Annual Report to the General Assembly*.

*These numbers are also included in VDOE's Child Count numbers.

**This does not include transportation costs for the child.

Key Findings



Strengths in Virginia

- Private day schools/residential schools are valuable partners in the continuum of alternative placements required by IDEA.
- There are existing programs/funding streams which serve students in the LRE.
 - Regional tuition
 - CSA wrap-around funds
 - 2008 Study - localities that utilize CSA wrap-around services for students with disabilities had decreased the number of youth served in private day and congregate education programs over a 2-year period.
 - Locally created public day schools (i.e., Stafford and Albemarle).
- Virginia is one of only 9 states to pass the U.S. Department of Education's first-ever "IDEA State Report Cards".
- There has been improved awareness/diagnostic strategies which have helped identify children with disabilities.

Key Findings



Challenges

- Many students' primary disabilities are accompanied by secondary challenges; the combination of issues makes it difficult to serve these students.
 - Dangerous or significant behaviors where students are disruptive to themselves, other students, or the general school environment.
 - Medically complex children
- Involvement by two different agencies (LEA and CSA)
- Federal requirements (IDEA & the Family Educational Rights and Privacy Act [FERPA])
 - Information sharing
 - Financing requirement (e.g., maintenance of effort & excess cost requirements)
 - Interagency collaboration

Key Findings



Challenges

- Once the child is placed in a private day or residential program, the cost of meeting the needs of the child “shifts” from the LEA to the CSA portion of the locality’s budget. The local CSA Office is bound by federal law to abide by provisions and placement determinations set forth in the IEP but has no input in the process.
- Many parents want their children served in private placements and may resist transitioning them back to the public school setting. Parents may also be anxious about moving their child from a private day/residential school back to a public school. While transitioning the child back to the LRE is an expectation pursuant to IDEA, the process can be challenging.

Key Findings



Challenges

- The existing special education state funding structure may not adequately meet the needs and increasing numbers of hard-to-serve, special education students.
 - May cost school divisions between 8.8 and 13.6 times more to educate than general education students.
- Challenges with using CSA wrap-around services to maintain LRE – *SEC 2011 Policy Clarification on Use of CSA Funds Under the Special Education Mandate*.
- The utilization and costs of private placements for special education students in Virginia has increased significantly.
 - The net total expenditures for private day placements under CSA have increased by \$13,015,629 (11.7%) between FY14 and FY15. Net expenditures have increased by 32% since 2012.
 - Net total expenditures for residential services for special education have increased 5% since 2012 and 10.3% since 2014.

Key Findings



What We Don't Know

- Additional information is needed on Virginia's Regional Special Education Programs – December 8 COY Meeting
- Incomplete data for CSA private day and residential placements for SFY 2015 – December 8 COY meeting
- There is a lack of unified data on needs and outcomes for students placed in private day/residential placements.
 - How are children in CSA-funded private day and residential placements doing?
 - Assessment scores
 - Transitioning to post-secondary education or the workforce

Draft Recommendations



Finding #1 – There are challenges with using CSA wrap-around services to maintain students in the least restrictive environment (LRE).

1. Request the SEC revisit existing policy restrictions and budgetary constraints with CSA state pool funds for wrap around services for students with disabilities. This review will include whether the community match rate could be utilized, existing parental co-payment policies for additional services not included in the IEP, and the prohibition on using funds for non-educational services provided by school employees, and make recommendations to improve both utilization and access to these funds to the Commission on Youth by the 2017 General Assembly Session.

Draft Recommendations



Finding #2 – Virginia's existing special education state funding structure does not adequately meet the needs and increasing numbers of hard-to-serve, special education students.

1. Request VDOE include in its analysis of regional special education programs other states' funding formulas and policies identified during the course of their study that may be employed in the Commonwealth. VDOE shall also determine the efficacy of Virginia's regional special education programs and assess whether provisions are needed to revise these programs and if these programs should be expanded to other regions of the Commonwealth. VDOE shall report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session.

Draft Recommendations



Finding #3 – The utilization and costs of private placements for special education students in Virginia has increased significantly.

1. Introduce a language-only budget amendment stating that localities may require the local share of the Special Education Private Day Placements come from the localities' school boards' budget, rather than the localities' general government budget. (The Advisory Group was split on this recommendation.)
2. Introduce a budget amendment ~~convening~~ for VDOE to convene an interagency workgroup to assess the barriers to serving students with disabilities in their local public schools. The workgroup shall assess existing policies and funding formulas including school division's program requirements, localities' composite indices, local CSA match rate allocations, local CSA rate setting practices, the impact of caps on support positions, policies for transitioning students back to the public school, and funding for local educational programming based on models which are collaborative and create savings for both local and state government while providing youth an educational option within their communities. Membership shall include a balance of local and state representative, all impacted state agencies, local education agency (LEA) representatives, local CSA representatives, local government officials, local special education administrators, stakeholder organizations, parent representatives, the Arc of Virginia, the Coalition for Students with Disabilities, and members of the Virginia General Assembly. The workgroup shall make recommendations to the Virginia Commission on Youth prior to the 2017 General Assembly Session.

Draft Recommendations



Finding #3 – The utilization and costs of private placements for special education students in Virginia has increased significantly. (cont.)

3. Request the Office of Children’s Services (OCS) collaborate with VDOE and include a track in their annual conference on best practices and effective strategies for serving children with disabilities in the least restrictive environments and increase knowledge and understanding on working with students with disabilities, and their parents, as well as improving coordination between schools and CSA.
4. Request the OCS include in its annual training plan strategies best practices and effective strategies for serving children with disabilities in the least restrictive environment and increase knowledge and understanding on working with students with disabilities, and their parents, as well as improving coordination between schools and CSA.

Draft Recommendations



Finding #4 – Virginia’s Regional Special Education Programs allow select school divisions to serve students in a less restrictive environment but the existing structure needs to be re-evaluated.

1. Request the VDOE to conduct a study on Virginia’s regional special education programs and report findings and recommendations to the Commission on Youth prior to the 2016 General Assembly Session.

Draft Recommendations



Finding #5 – There is no available data about the effectiveness of CSA-funded private day and residential programs.

1. Direct/Request that VDOE work with private providers including the Virginia Association of Independent Specialized Education Facilities, the Virginia Council for Private Education, the Virginia Association of Independent Schools, the Southern Association of Colleges and Schools, the Virginia Coalition of Private Provider Associations, the Virginia Association of Community Services Boards, local school divisions, stakeholder groups, and parent representatives to identify and define outcome measures to assess students' progress such as assessment scores, attendance, graduation rates, transition statistics, and return to the students' home schools.
2. Direct/Request VDOE establish a procedure requiring all assessment scores for private day students tagged as 'Special Situation' be included in the student's "home" school scores.
3. Direct/Request OCS to report annually CANS and CANVaS scores that measure educational outcomes by service placement name and type for all students being served in CSA-funded educational placements.

Draft Recommendations



Finding #6 – Virginia's parent consent provisions exceed federal regulations and may hinder serving students with disabilities in the least restrictive environment.

1. Request VDOE include in the development of the statewide model IEP, an ongoing planning process which facilitates returning students with disabilities served in private placements to the public school setting. The IEP will establish an ongoing process which should commence when a student with a disability is first placed in a private day or residential school. This process should involve the parents, home school officials, CSA officials, the child's teachers, and other involved stakeholders. VDOE shall also include in its guidance to schools best practices for transitioning students from private residential and private day schools such as employing gradual transition strategies and utilization of available community-based programs. VDOE will investigate the feasibility of incorporating in the statewide model IEP Medicaid billing for services provided to eligible IEP students



Questions/Comments?