



COMMONWEALTH OF VIRGINIA

Commission on Youth

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

November 17, 2014

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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 11/14 the first year and by 11/15 the second year and report recommendations prior to the 2016 General Assembly Session.

# Identified Issues



- Special education, pursuant to the Individuals with Disabilities Education Act (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.
- IDEA requires that students be provided special education services in the least restrictive environment (LRE) and that students with an Individualized Educational Program (IEP) not be unnecessarily segregated from nondisabled students, including those receiving educational services in private day and private residential schools or facilities.

# Identified Issues (cont.)



- State general funds support special education services in public school settings.
- Medicaid funds may be utilized to support private residential placements, but only for those youth with mental health treatment needs that qualify for residential services.
- CSA funds may also be used to provide services for at-risk youth and their families, including private day school and residential placements for the purposes of special education. Local interagency teams are responsible for managing CSA funds and also plan and oversee services to youth.

# Commonly Used Terms – Special Education



- IDEA – Individuals with Disabilities Education Act
- IEP – Individualized Education Program
- LRE – Least Restrictive Environment
- FAPE – Free Appropriate Public Education

# Commonly Used Terms – CSA



- CSA – Comprehensive Services Act for At-Risk Youth and Families
- SEC – State Executive Council
- SLAT – State and Local Advisory Team
- CPMT – Community Policy and Management Team
- FAPT – Family Assessment and Planning Team
- MDT – Multi-Disciplinary Team

# Federal & State Laws/Regulations/Policy



- Individuals with Disabilities Education Improvement Act of 2004 (IDEA) 20 U.S.C. § 1400 et seq. and associated regulations 34 C.F.R. § 300.1 et seq.
- Virginia Code § 22.1 Article 2. Special Education
- Virginia Code § 2.2 – 5211. Comprehensive Services Act for At-Risk Youth and Families. *State pool of funds for community policy and management teams*
- 8 VAC 20 Chapter 81 – *Regulations Governing Special Education Programs for Children with Disabilities in Virginia* (effective 1/10/10)
- Comprehensive Services Act for At-Risk Youth Policy Manual

# FAPE & LRE



- IDEA requires schools to provide FAPE in the LRE to students with disabilities. IDEA defines LRE as follows:
  - *To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other 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.*



## Continuum of Alternative Placements

Least Restrictive

Most Restrictive

Regular Classes

Special Classes

Special Schools

Student's Home

Hospital or Institution

# Special Education Child Count



## Special Education Child Count for Commonwealth of Virginia for 2013-2014

Disability Code	Grade PK	Grade KG	Grade 1	Grade 2	Grade 3	Grade 4	Grade 5	Grade 6	Grade 7	Grade 8	Grade 9	Grade 10	Grade 11	Grade 12	Total
<i>Autism</i>	825	877	1089	1299	1414	1392	1371	1290	1217	1154	1036	887	818	1190	15859
<i>Deaf- Blindness</i>															32
<i>Developmental Delay</i>	6750	2906	1326												10982
<i>Emtionally Disturbed</i>		48	161	317	495	582	674	773	862	995	1191	1083	917	948	9051
<i>Hearing Impairment</i>	131	93	114	111	93	113	99	94	86	103	100	86	82	99	1404
<i>Intellectual Disabilities</i>	42	201	367	450	562	608	645	734	790	783	871	784	815	1568	9220
<i>Multiple Disabilities</i>	146	132	173	199	227	229	238	214	260	268	284	253	295	482	3400
<i>Other Health Impairments</i>	157	387	1079	1827	2331	2732	2810	2902	2917	2878	3298	2807	2443	2438	31006
<i>Orthopedic Impairment</i>	70	56	58	66	65	46	50	62	41	47	48	60	69	46	784
<i>Specific Learning Disability</i>	10	169	879	2108	3337	4609	5317	5663	5650	5695	6187	5304	4486	4616	54030
<i>Speech/Language impairment</i>	3503	3557	4558	4017	3070	2299	1604	935	585	392	199	143	100	78	25040
<i>Traumatic Brain Injury</i>	18	11	11	11	20	28	31	29	28	45	37	40	46	64	419
<i>Visual Impairment</i>	32	30	49	33	46	45	57	49	45	46	50	38	31	41	592
															161819

# Virginia's LRE Targets



## LRE for School Age Students for 2012 to 2013 – Virginia Department of Education

	State Performance	State Target	Performance Met?
Students included in regular classroom 80% or more of the day	62.2%	68%	No
Students included in regular classroom less than 40% of the day	12.6%	<8%	No
Students served in separate public or private school, residential, home-based or hospital facility	3.6%	<1%	No

# Special Education Services Under CSA



- CSA is a law enacted in 1993 that was created to meet the needs of families with children and youth who have, or who are at risk of having, serious emotional or behavioral difficulties.
- CSA establishes a single state pool of funds to purchase services for at risk youth and their families. The state funds, combined with local community funds, are managed by local interagency teams who plan and oversee services provided to youth.
- Youth for whom services are mandated by law fall into 2 groups :
  - Youth in foster care and those deemed to be imminently at-risk for placement into foster care.
  - Youth who are special education eligible and have an IEP requiring they receive education in a private day or residential school setting.

# CSA & Special Education Targeted Population



- The special education target population includes those "children placed for purposes of special education in approved private school educational programs, previously funded by the Department of Education through private tuition assistance."
- This includes all children with IEP's requiring placements in private day school or private residential facilities.

# Funding Special Education Services



LRE on IEP is  
public school  
placement



Local school  
division funds all  
IEP services

LRE on IEP is  
private school  
placement



CSA funds all IEP  
services  
*(except transportation)*

# School Division Responsibilities



- Conducts evaluations for eligibility
- Ensures IEPs are implemented (public & private)
- Pays for:
  - IEP services and supports (public school);
  - Homebound services;
  - Regional special education programs;
  - Tuition to another public school; and
  - Transportation to implement IEP (private setting).

# CSA Responsibilities



- When IEP calls for private day or residential, CPMT/FAPT/MDT will:
  - authorize funding/payment;
  - collect required data for reporting;
  - consider needs of child/family beyond IEP;
  - collect data for utilization review;
  - assures coordination of services; and
  - not request/suggest modifications to IEP.

# Special Education Services Under CSA

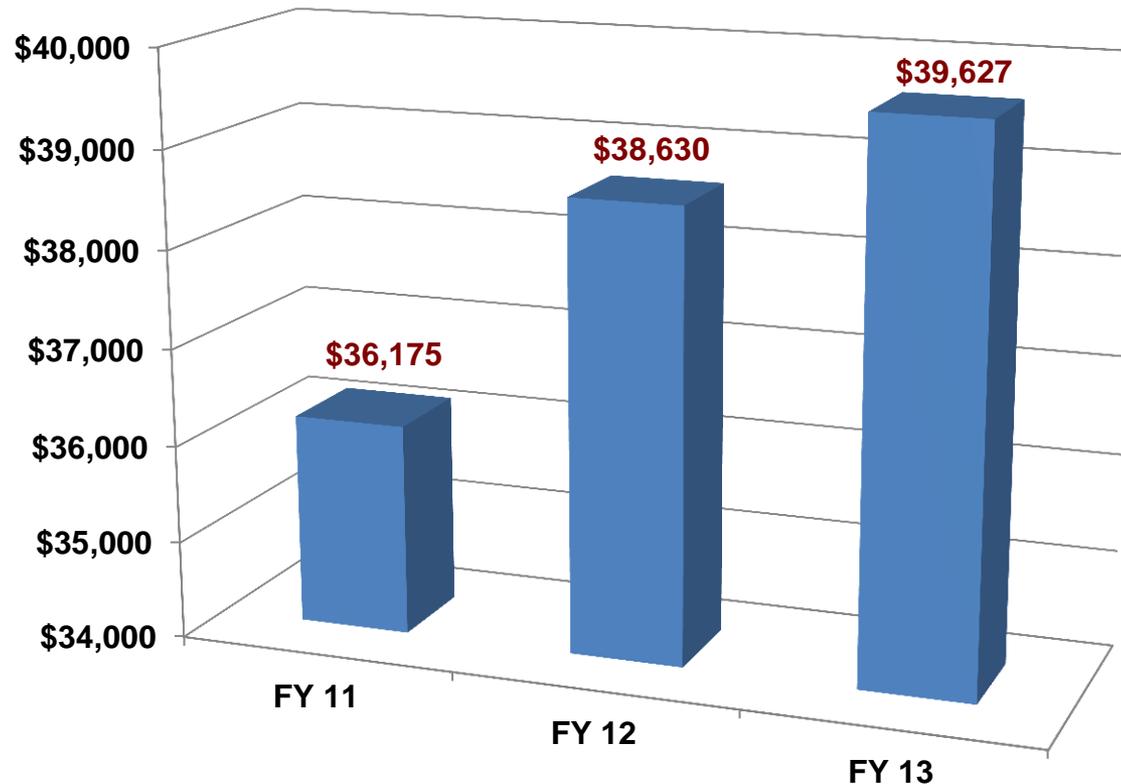


- CSA policies and procedures may not interfere/impede the delivery of services in accordance with IDEA.
- Local policies/procedures vary.
- CPMTs cannot deny funding of a private day or residential placement included in a student's IEP.
  - When an IEP team determines that there are multiple providers that can implement a child's IEP, the selection of provider may be governed by requirements established by the CPMT.
  - However, if a child's IEP names a specific provider of services and/or if the IEP team determines that a single provider is uniquely able to implement the child's IEP, that provider must be utilized regardless of its status relative to licensure, contracting, CPMT approval, etc.

# Special Education Services Under CSA



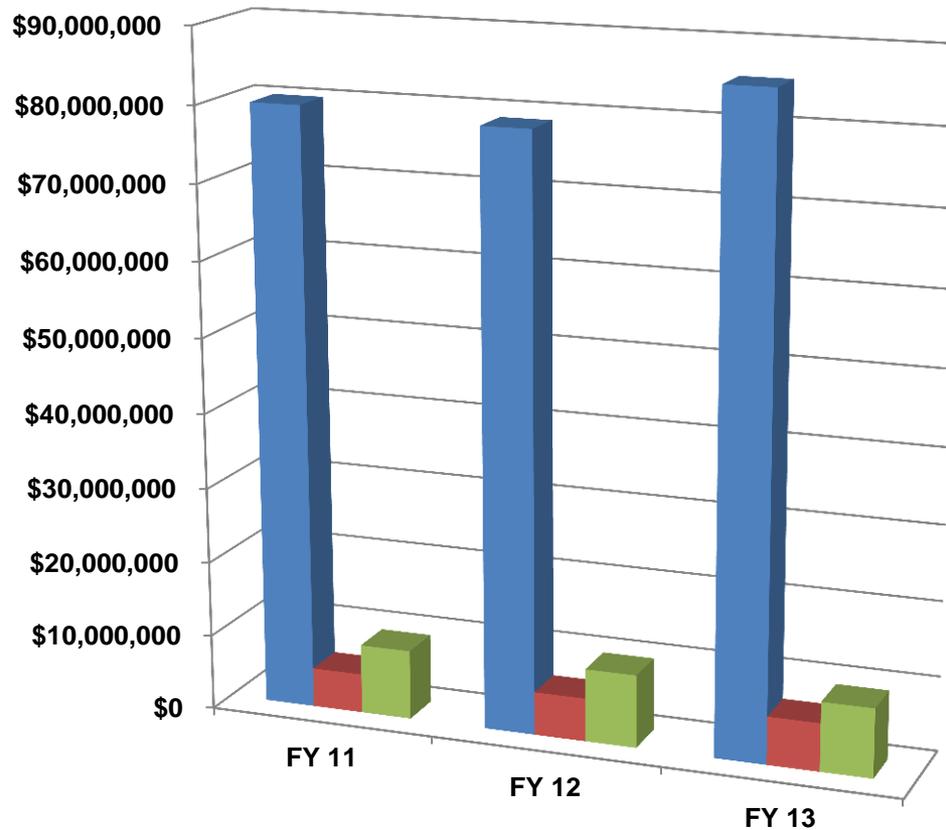
## Annual Average Expenditure Per Child – Special Education Services By Fiscal Year



# Special Education Services Under CSA



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



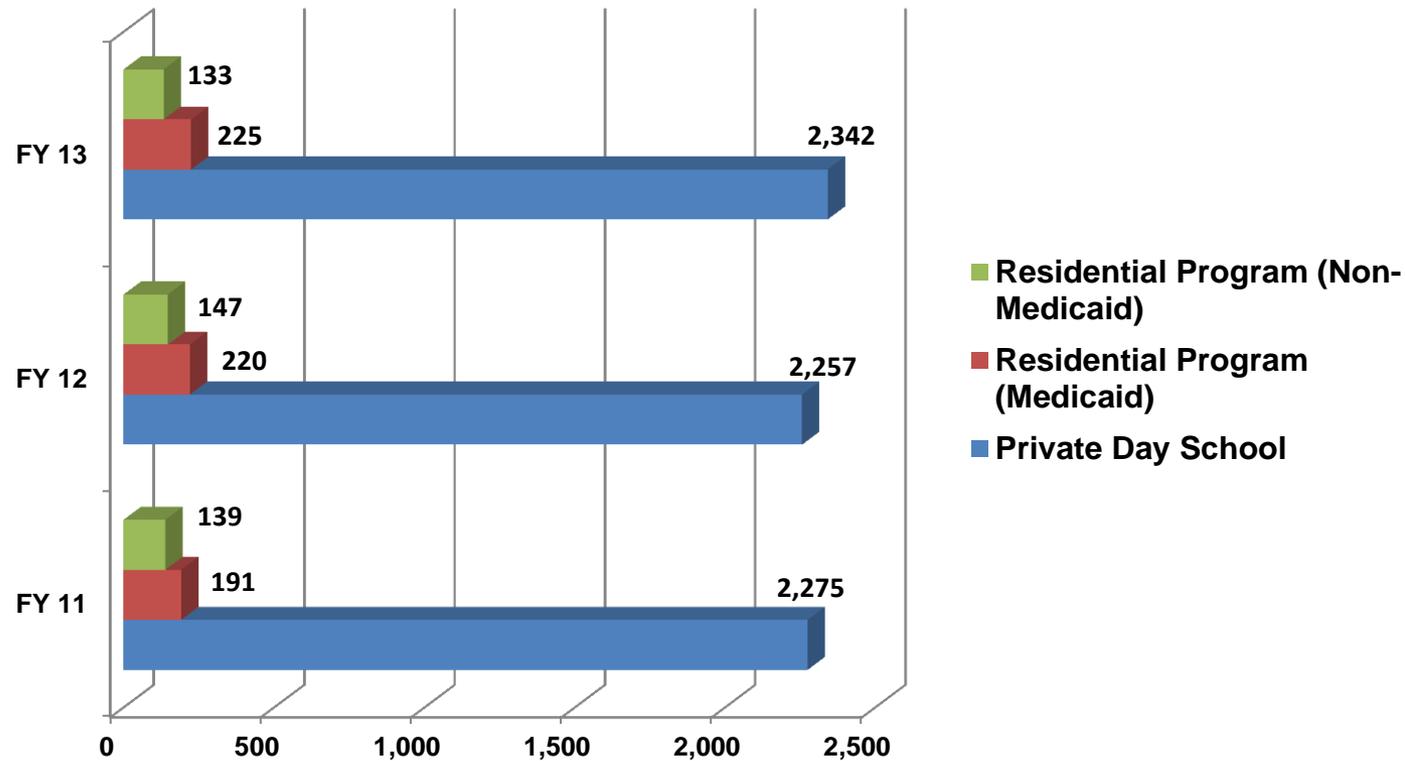
- Private Day School
- Residential Program (Medicaid)
- Residential Program (Non-Medicaid)

	FY 11	FY 12	FY 13
Private Day School	\$79,919,258	\$78,724,431	\$85,521,889
Residential Program (Medicaid)	\$5,238,511	\$5,783,148	\$6,439,138
Residential Program (Non-Medicaid)	\$9,266,474	\$9,746,140	\$9,263,610

# Special Education Services Under CSA



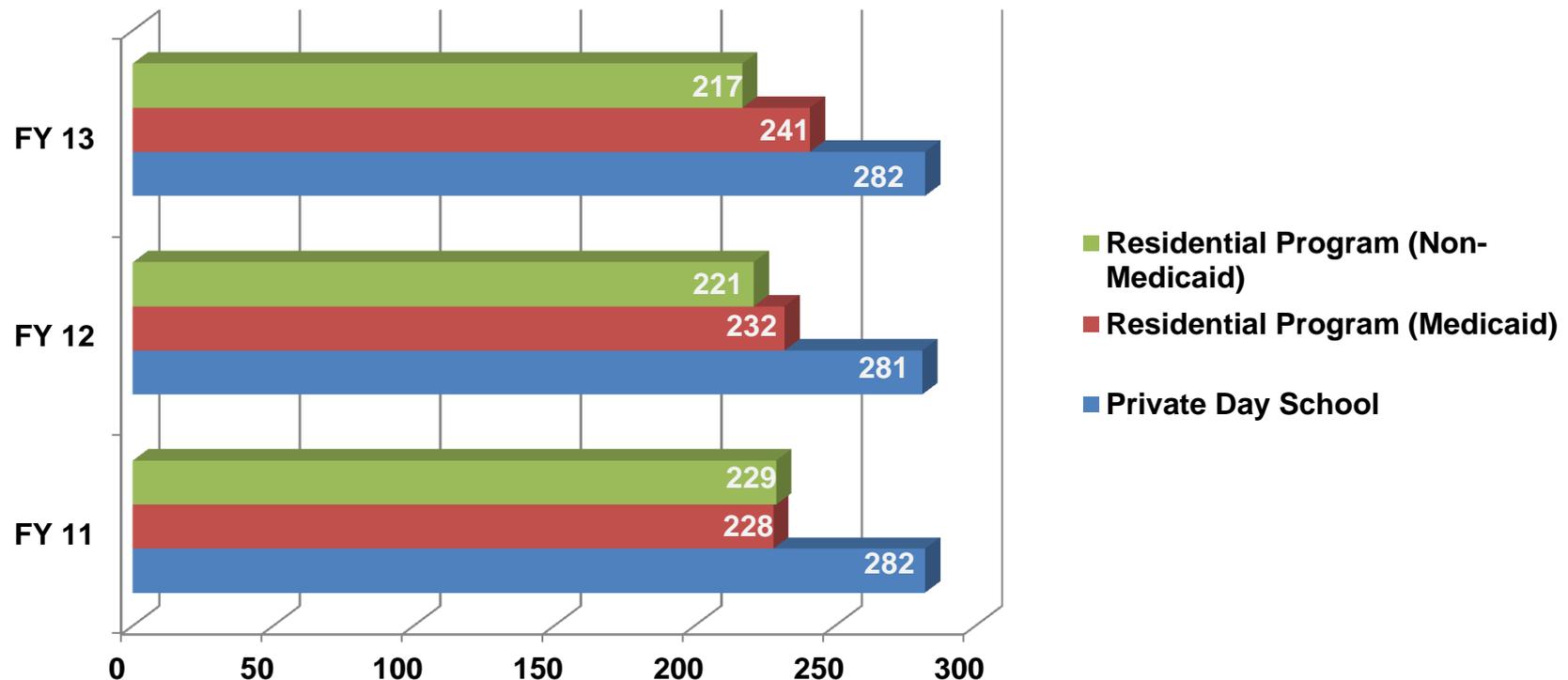
## Number of Youth Served by Placement Type – Special Education Services by Fiscal Year



# Special Education Services Under CSA



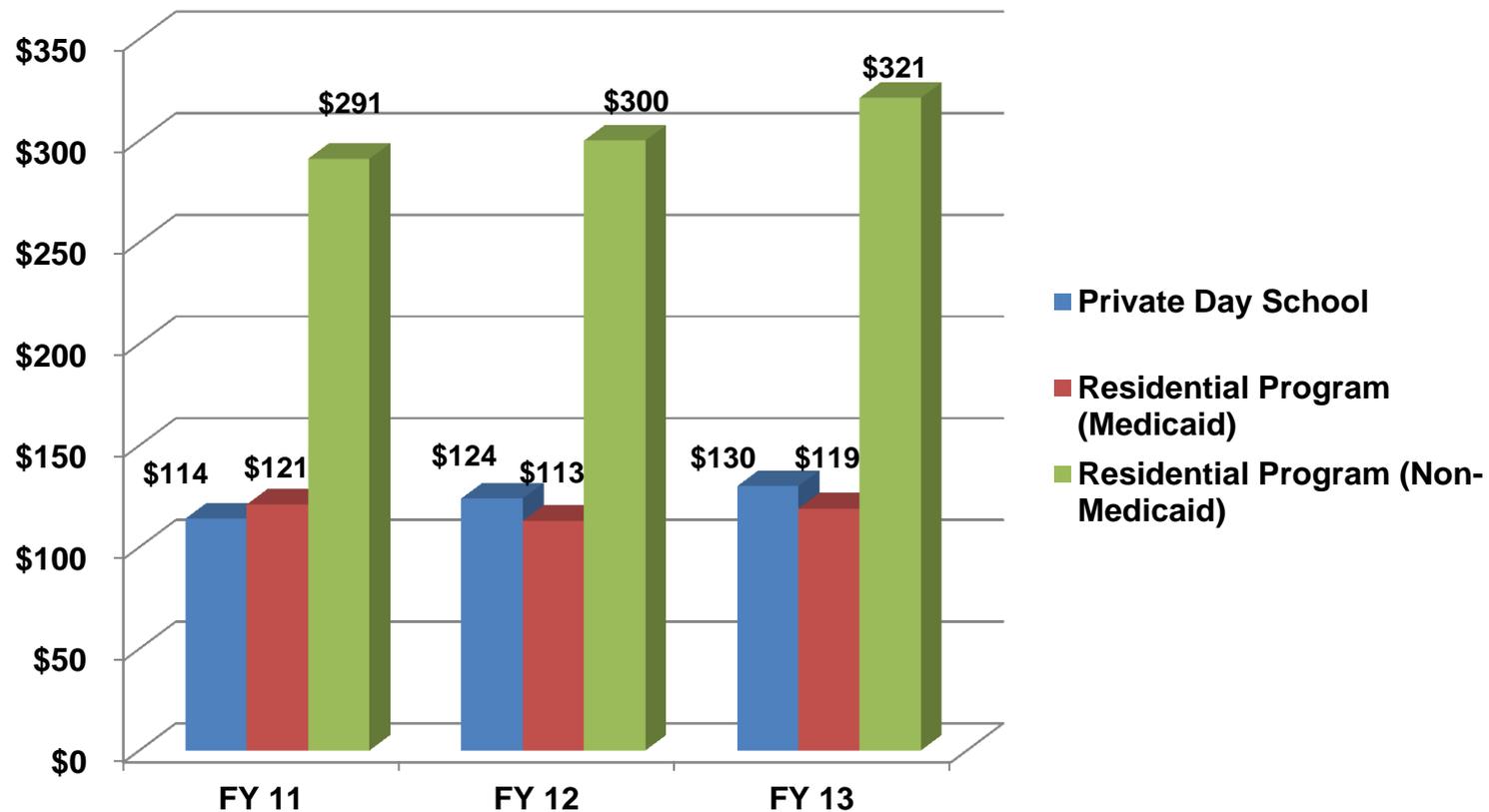
## Average Length of Stay (# of Days) by Placement Type by Fiscal Year



# Special Education Services Under CSA



## Average Cost Per Child by Placement Type By Fiscal Year



# Study Activities (Year One & Two)



- Conduct extensive background and literature reviews on other states' initiatives and policies
- Review federal statutes and regulations
  - Individuals with Disabilities in Education Act of 2004 (IDEA)
  - IDEA federal regulations
- Review Virginia laws and regulations
  - The Comprehensive Services Act for At-Risk Youth and Families
  - Virginia's Special Education Regulations
- Review Comprehensive Services Act Policies
  - Local match rate allocations
  - Utilization of Medicaid for Special Education Services
  - CSA Reimbursement for Wraparound educational services
- Meet with state and local officials, as well as key stakeholders
- Collect data to review the use of special education placements funded by CSA
  - Number of children who are placed
  - Services recommended
  - Service gaps

# Study Activities (Year Two)



- Convene Advisory Group
  - Comprehensive Services Act for At-Risk Youth
  - Virginia Department of Education
  - Department of Behavioral Health and Developmental Services
  - Virginia Board for People with Disabilities
  - Local Education Agencies
  - Community Policy and Management Teams Representatives
  - Family Assessment and Planning Team Representatives
  - Virginia Association of Independent Specialized Education Facilities
  - Virginia's Parent Resource Centers
  - Partnership for People with Disabilities
  - Clinicians and School Psychologists
  - Other Advocacy Organizations
  - Local Education Agencies/Special Education Administrators/Educators
  - Family Members/Youth
- Compile a description of services provided in private day/residential facilities not available within local school divisions
- Determine the feasibility and cost-effectiveness of more integrated alternatives
- Present findings and recommendations to COY

# Study Activities (Year Two)



## Review other CSA legislation

- HB 221 (Bell) – Students; admission to certain children’s residential facilities. Left in Appropriations. Requires each student admitted under a physician's order, due to medical necessity and not solely for school purposes, to a children's residential facility to immediately be enrolled in an education program that is comparable to that which is provided in the child's school division of residence. Relevant issues to be addressed by HJR 196.
- HB 229 (Cole) – Comprehensive Services for At-Risk Youth and Families; Special Education Programs. Expands eligibility for services to students who transfer from an approved private school special education program to a public school special education program. Left in Appropriations.
- SB 153 (Stuart) – Comprehensive Services for At-Risk Youth and Families; Special Education Programs. Companion to HB 229. Left in Appropriations.
- SB 369 (Favola) – Membership of the SEC. Would add a third private provider representative, a representative of a child advocacy group or organization, a representative of a mental health advocacy group with a specialization in children's mental health, and a representative of a public provider of children's mental health services. Left in Health, Welfare and Institutions.

# Study Activities (Year Two)



## Monitor activities of SEC and SLAT

- Subgroup of SEC reviewing non-CSA residential placements and funding educational services
- Data Element/Service Name Standardization Efforts