



FAIRFAX-FALLS CHURCH CSB BOARD MEETING

Bettina Lawton, Chair

Wednesday, June 24, 2020, 5:00 p.m.

Will be held electronically due to the COVID-19 pandemic

Live audio of the meeting may be accessed by dialing:

1-877-336-1829 and entering the Participant Access Code #8628844

- | | | |
|--|------------------|-----------|
| 1. Meeting Called to Order | Bettina Lawton | 5:00 p.m. |
| 2. Roll Call and Audibility | Bettina Lawton | |
| 3. Preliminary Motions | Bettina Lawton | |
| 4. Matters of the Public | Bettina Lawton | |
| 5. Amendments to the Meeting Agenda | Bettina Lawton | |
| 6. Approval of the May 13, 2020 CSB Board Virtual Meeting Draft Minutes | Bettina Lawton | |
| 7. Director's Report | Daryl Washington | |
| A. Financial Effects of COVID-19 to Budget, Revenue, and Expenses | | |
| 1 - County and State Budget | | |
| 2 - CSB Fiscal Documents-Fee and Insurance Revenue | | |
| 3 - COVID related expenses | | |
| B. Changes in CSB Operations | | |
| 1 - Facilities Closed | | |
| 2 - Employee Work Changes | | |
| 3 - Program and Service Changes | | |
| 4 - Changes in Individuals Served | | |
| C. Re-opening Plans | | |
| D. Overview of Fairfax County's Human Services Issue Paper | | |
| 8. Matters of the Board | Board Members | |
| 9. Information Item | | |
| A. CSB Board Policy Review of # 1305 and #3040 | Sheila Jonas | |
| 10. Action Item | | |
| A. Community Services Performance Contract | Daryl Washington | |
| B. Virginia's SAMHSA COVID-19 Emergency Grant | Daryl Washington | |
| C. CSB Board Policy Approval of # 0030, #1102, and #1103 | Sheila Jonas | |
| D. CSB Board Office Nominating Committee | Bettina Lawton | |
| 11. Closed Session: Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel, as permitted by Virginia Code Section 2.2-3711(A)(8). | | |
| 12. Adjournment | | |

Meeting materials will be posted online at www.fairfaxcounty.community-services-board/board/archives or may be requested by contacting Erin Bloom at erin.bloom@fairfaxcounty.gov or at 703-324-7827

Fairfax-Falls Church Community Services Board
Virtual Meeting Minutes
May 13, 2020

The Board met electronically via audio conference call due to the COVID-19 pandemic that made it unsafe to physically assemble a quorum in one location or to have the public present. Access was made available to CSB Board members, CSB staff, and members of the public. The meeting notice, with participation instructions, were posted electronically and on the building in which the meeting is typically held. Additionally, participants were provided an opportunity to register for public comment during the 30 minutes prior to the meeting being called to order.

The following CSB members were present: Bettina Lawton Chair (office); Karen Abraham; Jennifer Adeli; Daria Akers; Captain Derek DeGeare (home); Ken Garnes; Sheila Coplan Jonas (home); Larysa Kautz; Garrett McGuire; Srilekha Palle (home); Edward Rose; Diane Tuininga (home); and Anne Whipple

The following CSB Board members were absent:

The following CSB staff was present: Daryl Washington; Georgia Bachman; Jessica Burris; Linda Mount; Michael Neff; and Barbara Wadley-Young.

Guests: None identified.

1. Meeting Called to Order

Bettina Lawton called the meeting to order at 5:00 p.m.

2. Roll Call and Audibility

CSB Board Chair Bettina Lawton, conducted a roll call with each CSB Board Member, as identified above, to confirm that a quorum of current members was present and audible. Ms. Lawton passed the virtual gavel to CSB Board Vice Chair Jennifer Adeli to make several motions required to begin the meeting.

Ms. Lawton made a motion that each member's voice could be adequately heard by each member of the CSB Board which was seconded and passed.

3. Preliminary Motions

CSB Board Chair Bettina Lawton made a motion that the State of Emergency caused by the COVID-19 pandemic makes it unsafe for the CSB Board to physically assemble and unsafe for the public to physically attend any such meeting, and that as such, FOIA's usual procedures, which require the physical assembly of this Board and the physical presence of the public, cannot be implemented safely or practically.

A further motion was made that this Board may conduct this meeting electronically through a dedicated audio-conferencing line, and that the public may access this meeting by calling 1-877-411-9748. All motions were seconded and approved

4. Matters of the Public

No matters were presented.

5. Amendments to the Meeting Agenda

No revision recommendations were proposed.

6. Approval of the Minutes

Draft minutes of the February 26, 2020 meeting of the Fairfax-Falls Church Community Services Board were presented for review. As no suggestions for revision were offered, Bettina Lawton made a motion for approval, which was seconded and passed.

7. Director's Report

Daryl Washington provided numerous agency updates, the highlights of which include:

- Noting the FY2021 Budget was approved May 12, 2020, an overview of the items that affect the CSB were provided. Emphasizing that a limited number of positions were approved, it was clarified that existing positions will be restructured and reassigned to create the newly approved positions.
- Jessica Burris and Mr. Washington provided an overview of the fiscal documents that provided an update to the financial effects of COVID-19.
- An update to CSB expenses related to COVID-19 included confirmation that an adequate inventory of PPE (Personal Protective Equipment) is tracked and maintained and there will continue to be an increase in the occurrence of cleaning at all sites, primarily at the Merrifield Center. It was further noted that clients are screened in exterior tents and then escorted into sites for services.
- Facility changes include
 - Residential programs A New Beginning (ANB) and Crossroads merged and relocated to the Crossroads facility.
 - The Crisis Care program moved into the vacant ANB building until renovations to the new Crisis Care location are complete.
 - The main CSB sites providing Medication Clinic and Pharmacy services remain open.
 - Approximately 500 outpatient staff including Support Coordinators and Assessment and Emergency Services staff were trained to provide telehealth services, noting the success of providing telehealth services.
- Referring to the Governor's plans for a phased reopening of the Commonwealth and acknowledging the delay authorized for the Northern Virginia region, Mr. Washington clarified that resumption of normal CSB operations is anticipated for late summer, noting that the Board will receive regular updates.
- Barbara Wadley-Young confirmed that CRSP (Community Readiness & Support Program) has successfully transitioned from CSB direct operation to PRS (Psychiatric Rehabilitation Services) contracted services.
- Mr. Washington provided some background to the Employment and Day services provided through contracted vendor E-Tron, noting that the contract, a copy of which was included in the meeting materials, has been canceled. Individuals impacted by the cancelation will be assisted identifying employment opportunities when normal operations are resumed in the region.

- New BI (Business Intelligence) Dashboard reports were provided, noting the reports were developed in response to a request from the Board. It was acknowledged that the results reflected the impact of COVID-19. Additionally, the FY2020 Q3 CSB Status Report was provided, noting that this report can be an excellent tool for providing regular updates to the Board of Supervisor (BOS) or City Council member that appointed each member to the Board.

8. Matters of the Board.

Daria Akers led an offering of thanks from the board to CSB staff for working so hard during the pandemic.

9. Legislative Testimony

Copies of testimony presented to the Fairfax County Human Services Council and the Fairfax County Board of Supervisors in April was provided in the meeting materials.

10. Action Item

A. *Virginia Behavioral Health Docket Diversion Programs Grant*

Marisa Fariña-Morse and Daryl Washington provided an overview of the DBHDS (Department of Behavioral Health and Developmental Services) grant, noting that there is some precedence of this type of grant award becoming a baseline increase. Diane Tuininga made a motion to approve applying for and accepting, if awarded, \$185,000 annually for two years in support of the Behavioral Health Docket, which was seconded and approved.

B. *Behavioral Health Equity Mini-Grant.*

Daryl Washington provided an overview of the grant that provides funds to reduce behavioral health disparities in the community. Ken Garnes made a motion to approve applying for and accepting \$10,000 in one-time funds, that was seconded and approved.

Bettina Lawton announced no need for a Closed Session.

There being no further business to come before the Executive Committee, the meeting was adjourned at 6:29 p.m.

Actions Taken - -

- ◆ Motions to confirm audibility, purpose, and accessible electronic access to the meeting as required were proposed and unanimously passed.
- ◆ The February 26, 2020 CSB Board meeting draft minutes were approved.
- ◆ Approval to submit for and, if awarded, accept funding from the DBHDS Virginia Behavioral Health Docket Diversion Programs Grant.
- ◆ Approval to submit for and accept funding from the Behavioral Health Equity Mini-Grant.

Date Approved

Staff to the Board

FY 2020 Pay Period Metrics

Category/GL	FY 2020 Revised Budget	PP Target July-Dec PP 14-26	PP Target Jan-June PP 1-13	Check
Merit Salary	\$75,956,496	\$2,921,404	\$2,921,404	\$75,956,496
Non-Merit Salary	\$7,796,615	\$299,870	\$299,870	\$7,796,615
Shift	\$216,400	\$8,323	\$8,323	\$216,400
OT	\$1,147,998	\$44,154	\$44,154	\$1,147,998
Stipends	\$307,650	\$11,833	\$11,833	\$307,650
Leave Pay-Out	\$600,000	\$23,077	\$23,077	\$600,000
Fringe	\$38,444,815	\$1,442,582	\$1,514,711	\$38,444,815
TOTAL	\$124,469,974	\$4,751,242	\$4,823,371	\$124,469,974

Actual Data	PP 26 (Repeat)	PP 1 Actual	PP 2 Actual	PP 3 Actual	PP 4 Actual	PP 5 Actual	PP 6 Actual	PP 7 Actual	PP 8 Actual	PP 9 Actual	PP 10 Actual	YTD
Merit Salary	\$2,893,858	\$2,923,166	\$2,890,864	\$2,886,335	\$2,984,375	\$2,879,123	\$2,874,013	\$3,010,182	\$2,858,568	\$2,894,490	\$2,889,731	\$64,961,207
Non-Merit Salary	\$309,808	\$231,099	\$293,283	\$291,865	\$309,990	\$287,479	\$300,336	\$295,242	\$309,861	\$305,758	\$300,250	\$6,638,437
Shift	\$9,164	\$7,586	\$8,767	\$8,423	\$8,538	\$8,409	\$8,331	\$7,954	\$6,791	\$6,290	\$6,131	\$178,383
OT	\$56,520	\$122,262	\$52,939	\$83,461	\$48,636	\$87,233	\$57,754	\$65,368	\$65,738	\$71,153	\$75,466	\$1,751,475
Stipends	\$12,530	\$12,480	\$18,424	\$14,386	\$12,563	\$13,786	\$12,666	\$12,315	\$12,382	\$12,262	\$12,205	\$304,930
Leave Pay-Out	\$42,178	\$12,196	\$44,364	\$10,243	\$33,356	\$4,187	\$25,181	\$6,849	\$54,896	\$35,696	\$9,743	\$569,386
Fringe	\$1,533,624	\$1,445,574	\$1,414,750	\$1,415,986	\$1,485,356	\$1,413,026	\$1,402,590	\$1,458,511	\$1,408,669	\$1,406,873	\$1,445,790	\$31,902,096
TOTAL	\$4,857,682	\$4,754,363	\$4,723,390	\$4,710,700	\$4,882,815	\$4,693,244	\$4,680,871	\$4,856,422	\$4,716,905	\$4,732,522	\$4,739,315	\$106,305,913

Fairfax-Falls Church Community Services Board
Fund 40040

FY 2020 May Statement

	FY 2020 Approved Budget	FY 2020 Revised Budget	FY 2020 Revised YTD Budget	FY 2020 Actuals Thru May 2020	Variance from Revised YTD Budget	FY 2020 Projection	Variance from FY20 Revised Budget
Beginning Balance	26,444,473	26,444,473		26,444,473		26,444,473	-
F Fairfax City	1,957,610	1,957,610	1,957,610	1,957,610	-	1,957,610	-
F Falls Church City	887,299	887,299	887,299	887,299	-	887,299	-
F State DBHDS ¹	11,886,443	11,886,443	10,895,906	9,033,200	(1,862,706)	10,473,200	(1,413,243)
F Federal Pass Thru SAPT Block Grant	4,053,659	4,053,659	3,715,854	3,799,941	84,087	4,053,659	-
V Direct Federal Food Stamps	154,982	154,982	142,067	106,487	(35,580)	154,982	-
V Program/Client Fees	4,011,751	4,011,751	3,677,438	3,627,913	(49,525)	3,808,638	(203,113)
V CSA	858,673	858,673	787,117	1,056,258	269,141	1,101,258	242,585
V Medicaid Option	2,651,345	2,651,345	2,430,400	5,198,826	2,768,426	5,485,361	2,834,016
V Medicaid Waiver	8,537,500	8,537,500	7,826,042	6,367,239	(1,458,803)	6,696,586	(1,840,914)
V Miscellaneous	14,100	14,100	12,925	139,858	126,933	152,572	138,472
Non-County Revenue	35,013,362	35,013,362	32,332,658	32,174,630	(158,028)	34,771,164	(242,198)
General Fund Transfer	146,575,985	146,575,985	146,575,985	146,575,985	-	146,575,985	-
Total Revenue	208,033,820	208,033,820	178,908,643	205,195,088	(158,028)	207,791,622	(242,198)
Compensation	82,973,087	86,025,159	76,099,179	74,403,818	1,695,361	86,561,930	(536,771)
Fringe Benefits	37,075,699	38,444,815	34,008,875	31,902,096	2,106,779	36,917,021	1,527,794
Operating ²	63,279,541	67,076,113	61,486,437	48,224,339	13,262,098	58,333,302	8,742,811
Recovered Cost (WPF0)	(1,738,980)	(1,738,980)	(1,594,065)	(1,464,635)	(129,430)	(1,738,980)	-
Capital ³	-	771,855	707,534	439,138	268,396	400,000	371,855
Transfer Out ⁴	-	6,100,000	6,100,000	6,100,000	-	6,100,000	-
Total Expenditures	181,589,347	196,678,962	176,807,960	159,604,755	17,203,204	186,573,273	10,105,689
Ending Balance	26,444,473	11,354,858				21,218,349	9,863,491
DD MW Redesign Reserve ⁵	2,500,000	2,500,000				2,500,000	
Medicaid Replacement Reserve ⁶	2,800,000	2,800,000				2,800,000	
Opioid Epidemic MAT Reserve ⁷	300,000	300,000				300,000	
Diversion First Reserve ⁸	1,244,245	1,244,245				1,244,245	
Unreserved Balance	19,600,228	4,510,613				14,374,104	

Key

- F Fixed Annual Allocations
- V Variable Revenue based on number of services provided and total billing collections

Reserve

- 1 FY20 Budget for State Funds of \$11.9M is overstated and based on prior year fund allocations. Due to Medicaid Expansion, DBHDS reduced our revenue by ~\$4M (\$4.4M due to Medicaid Expansion, offset by ~\$400K for COLA).
- 2, 3 Operating & Capital Revised Budget includes approved carryover request of \$8.9M for ongoing contractual obligations, medical detox and associated nursing services, housing assistance, building maintenance and repairs (\$8M), prevention incentive funding (\$525K), WIN implementation (\$250K), opioid (\$150K)
- 4 Transfer Out Revised Budget was Approved during FY19 Carryover. It includes several projects for space reconfiguration to relocate staff and accommodate programs at the Merrifield Center (\$1.6M), replacement of security system system at the Juvenile Detention Center (\$2.5M) and space realignments to the third d floor of the Pennino Building (\$2M).
- 5 The DD Medicaid Waiver Redesign Reserve ensures the County has sufficient funding to provide services to individuals with developmental disabilities in the event of greater than anticipated costs due to the Medicaid Waiver Redesign effective July 1, 2016.
- 6 The Medicaid Replacement Reserve, for the implementation of Medicaid Expansion to a potential 600 consumers and will provide support with the transition of funding from the State support to Medicaid fees.
- 7 The Opioid Use Epidemic Reserve provides flexibility, consistent with the Board of Supervisors' FY 2018-FY 2019 Budget Guidance, as the County continues to work with national, state, and regional partners on strategies to combat the opioid epidemic.
- 8 The Diversion First Reserve represents one-time savings that were realized in FY 2017 as a result of longer than anticipated recruitment times to fill new positions and savings in operating expenses to pay for medical clearances. This funding will be reallocated as part of a future budget process based on priorities identified by the Board of Supervisors.

FY 2020 Fiscal Notes

FY20 Year End Forecast - May 2020

Forecast

Revenue – Total FY20 non-county projected revenue is \$34,771,164 or \$242K shortfall due to:

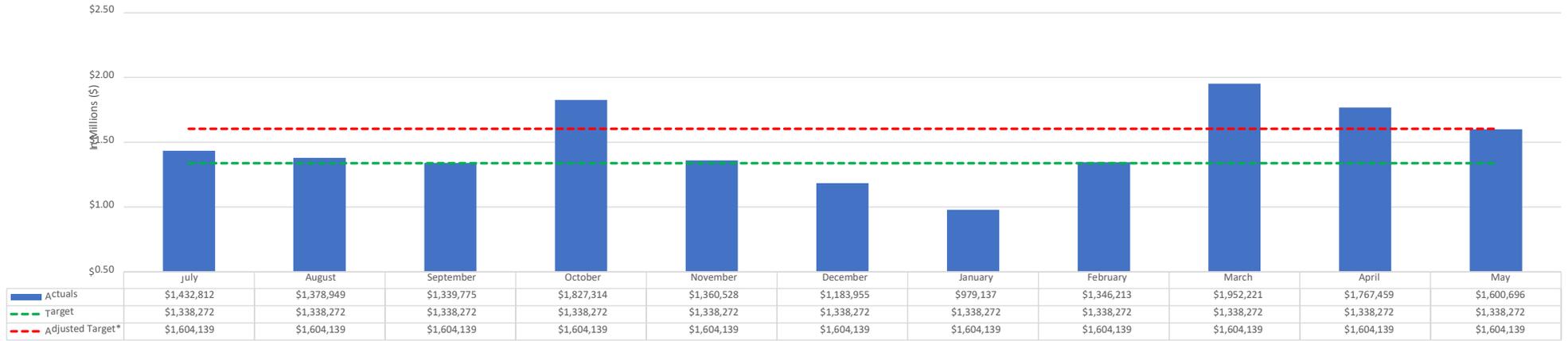
- Fixed revenue estimated shortfall of \$2.8M due to state revenue reduction related to Medicaid Expansion (\$4.4M) offset by approximately \$400K for COLA, \$1.1M received due to Medicaid Expansion shortage, and end-of year one-time payments from DHBDS.
- Variable revenue estimated has been revised due to COVID-19 impact. Although we continue to see a decline (year over year) in the number of services and corresponding billable rates, we have seen a slight increase in recent months related to prior period billings actualizing in May.

Expense – Total FY20 projected expenditures are \$186,573,273, or \$10.1M better than revised budget due to:

- Compensation and Fringe surplus of \$991K. This is predominantly due to higher than budgeted vacancy rate.
- Operating surplus of \$8.7M. This is predominately due to the encumbered carryover from FY19.
 - YTD COVID-19 related expenditures are \$717K.

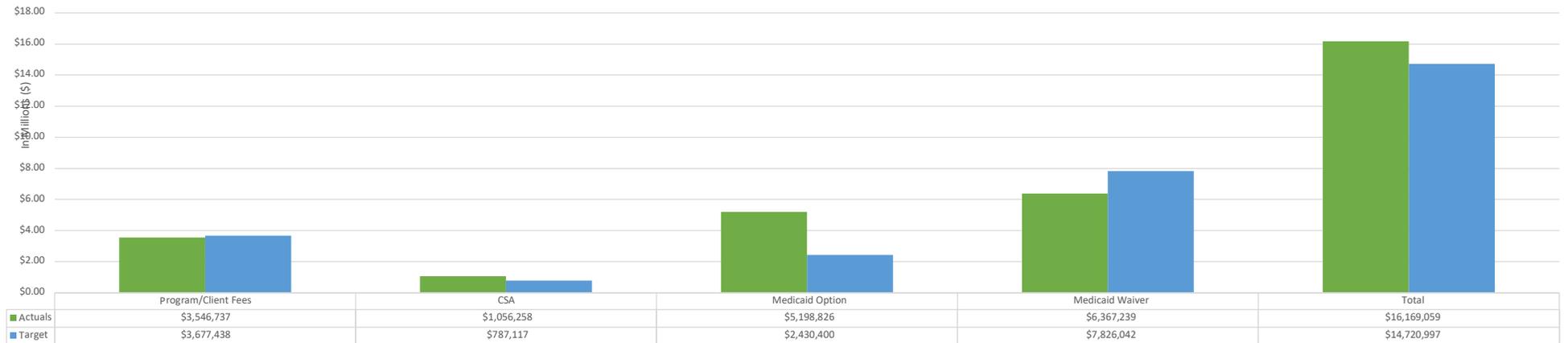
FY20 May YTD Revenue Analysis

Variable Revenue by Month
FY20
Actuals vs. Target



*Adjusted target is reflective of expected Medicaid expansion revenue (\$4.4M for FY20)

Variable Revenue by Category
FY20 Year to Date
Actuals vs. Target

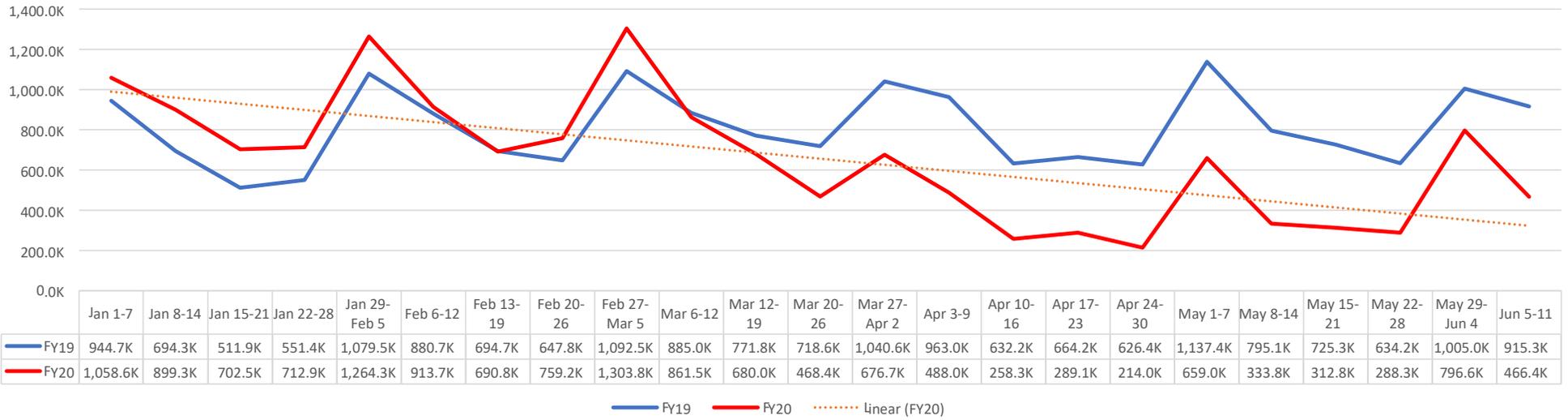


Fairfax-Falls Church Community Services Board

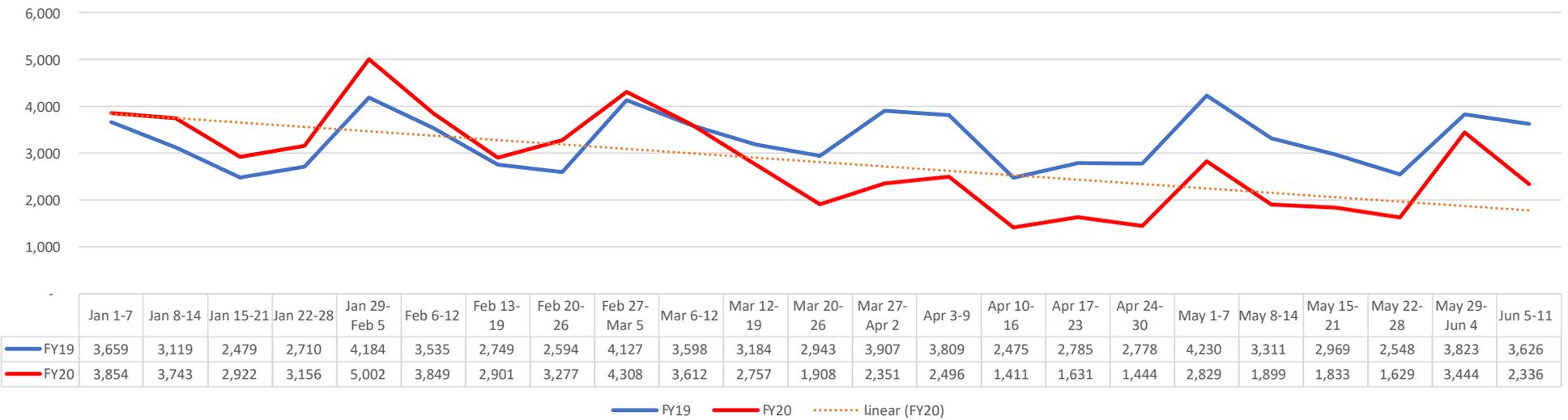
Variable Revenue:

FY19 vs. FY20 Billings and Services

FY19 vs. FY20 Billings

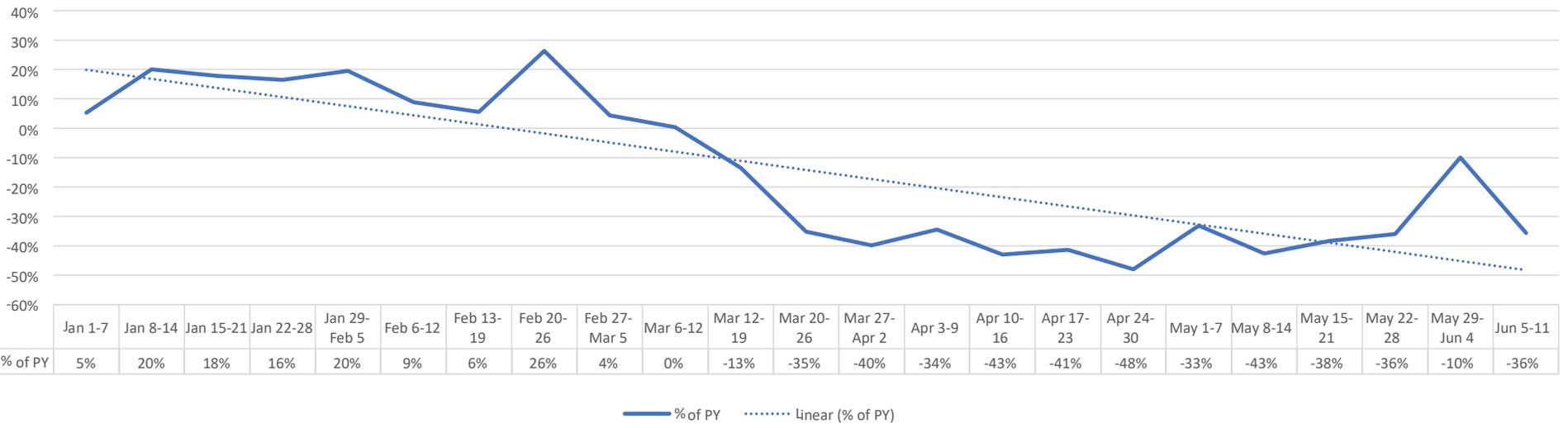


FY19 vs. FY20 Services



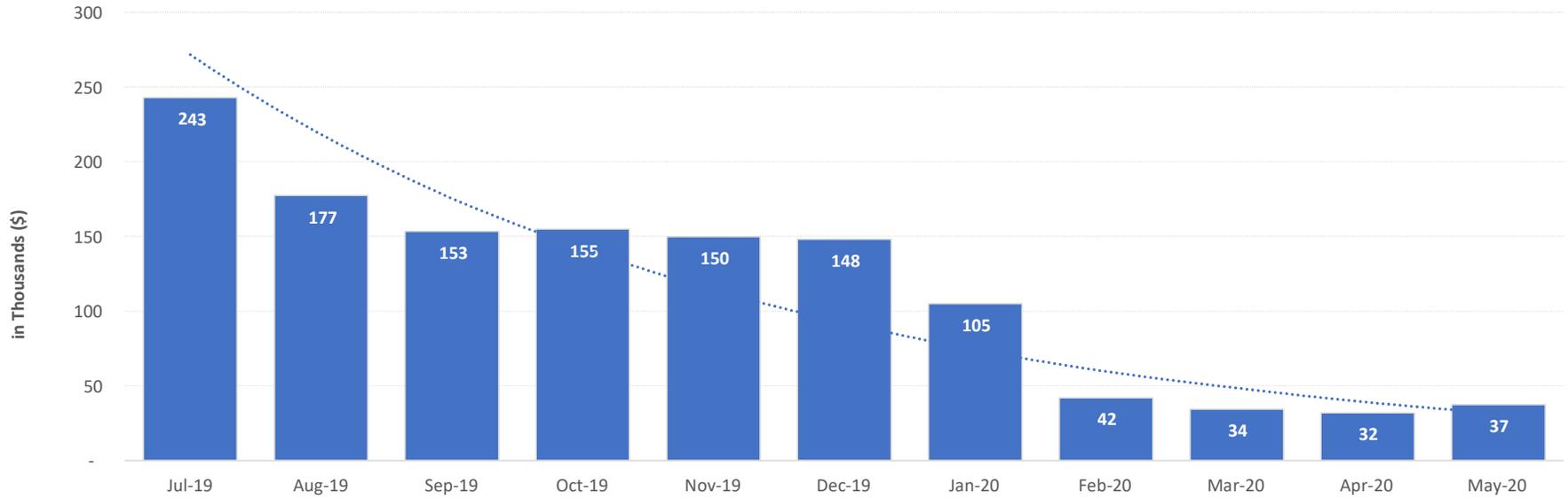
**Fairfax-Falls Church Community Services Board
Variable Revenue:
FY19 vs. FY20 Billings and Services**

FY19 vs. FY20 Services

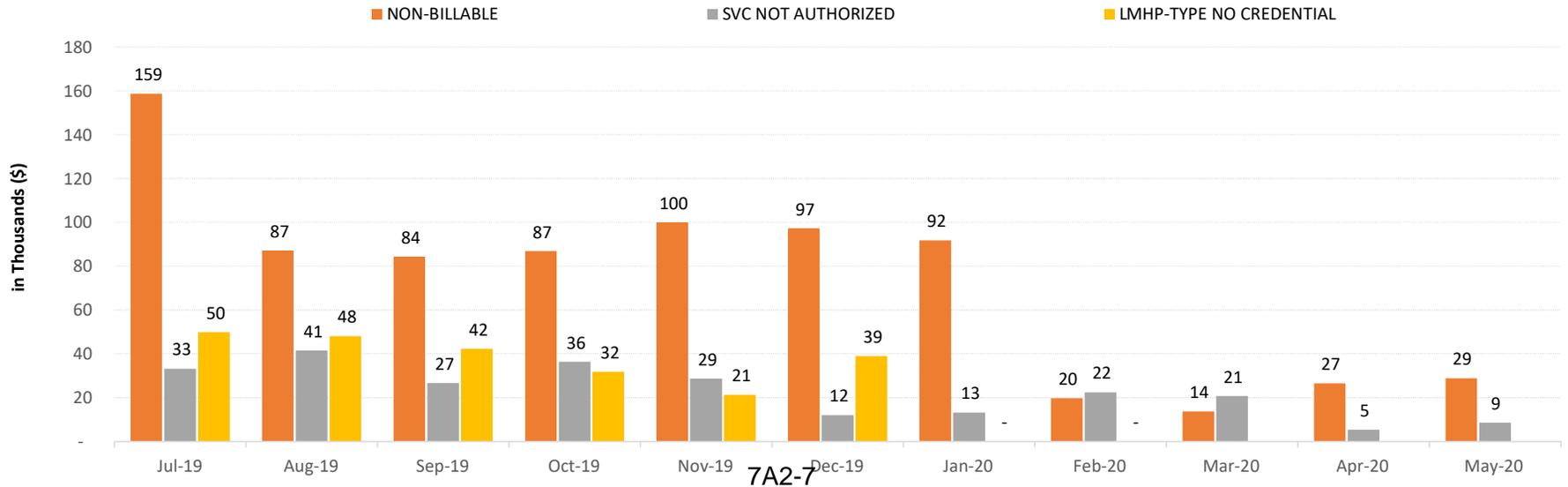


Revenue Maximation - Non-Billable Summary YTD FY 2020

Total Non-Billable Amount



Billing Error Types



7A2-7

Submission Error	May 2020 Adj Amt (\$)
NON-BILLABLE	28,847
SVC NOT AUTHORIZED	8,637
Total:	37,483
Annualized:	449,801

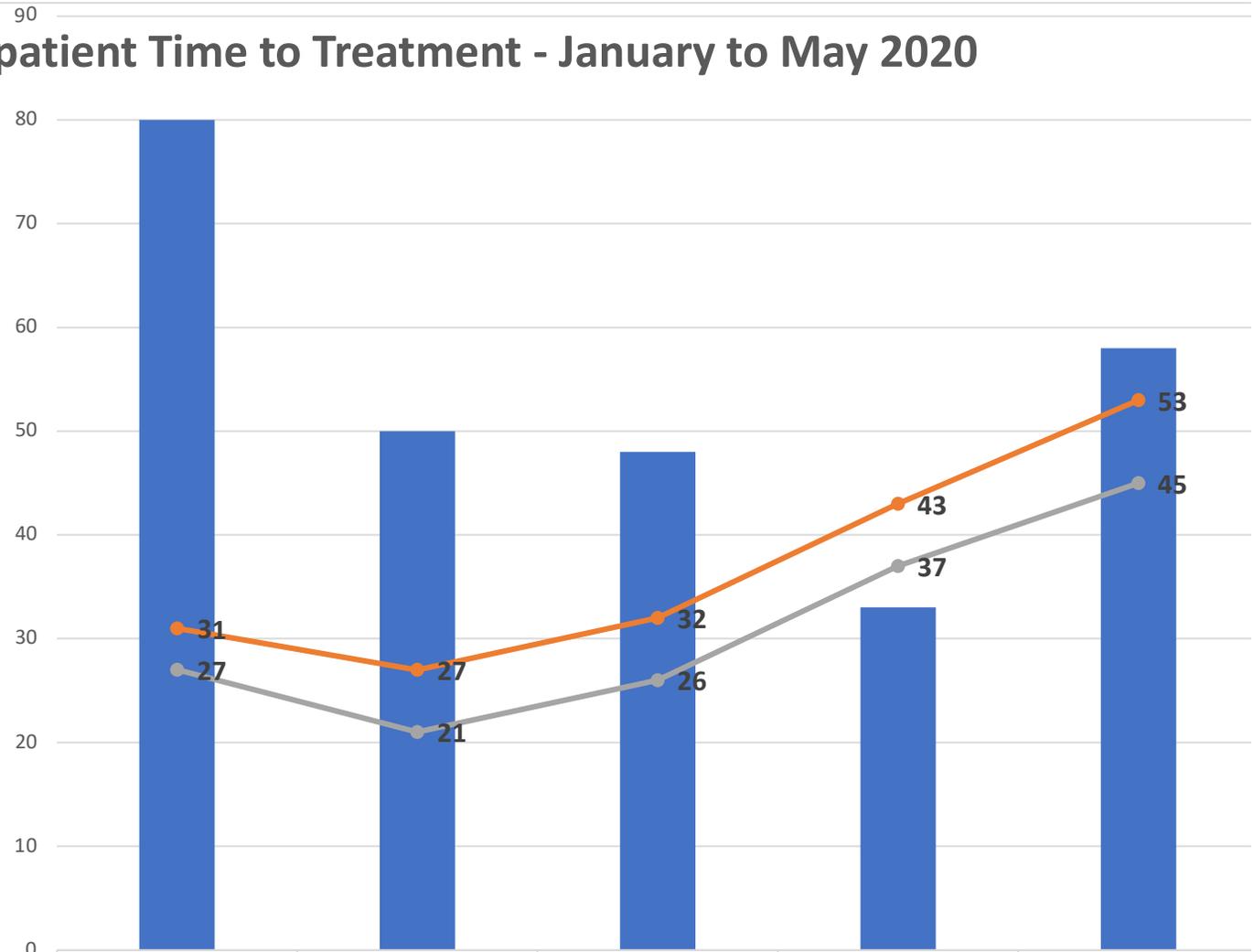
Service Type	Service ProgramCode	Amt (\$)	Non-Billable Reason	Note
Medication Mgmt		13,986		
	MAT OBOT	13,410	Program-ARTS	Decision by leadership to make nonbill
	OP DETOX	324	Program-ARTS	Decision by leadership to make nonbill
	MEDSVCS	252	Program-ARTS	Decision by leadership to make nonbill
PhysExamResi NP18-39		3,006		
	SUBOXONE	1,503	Program-ARTS	Decision by leadership to make nonbill
	DETOX SOC	1,002	Program-ARTS	Decision by leadership to make nonbill
	DETOX MED	501	Program-ARTS	Decision by leadership to make nonbill
PhysExamResi NP40-64		2,338		
	SUBOXONE	1,002	Program-ARTS	Decision by leadership to make nonbill
	DETOX SOC	1,002	Program-ARTS	Decision by leadership to make nonbill
	DETOX MED	334	Program-ARTS	Decision by leadership to make nonbill

* Source: Credible Service & Adjustment Report

* Adjustment amount reflects current month of services and excludes prior month adjustments.

* Beginning Feb 2020, adjustment amount excludes bundled services such as MH Skill-Building Resi and Case Management Resi.

Adult Outpatient Time to Treatment - January to May 2020

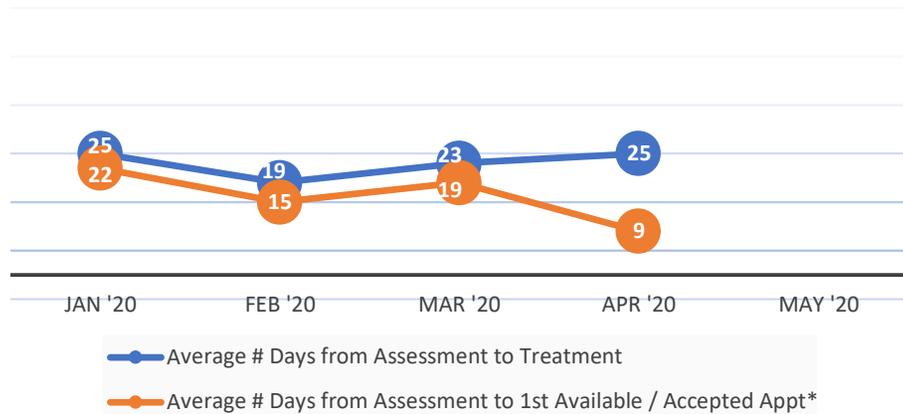


	Jan '20	Feb '20	Mar '20	Apr '20	May '20
# Adults Who Attended 1st Treatment Appt	80	50	48	33	58
Average # Days from Assessment to Treatment	31	27	32	43	53
Average # Days from Assessment to 1st Available / Accepted Appt*	27	21	26	37	45

*Average number of days from Assessment to Date of First Available Appointment (if known) OR from Assessment to Date of First Accepted Appointment

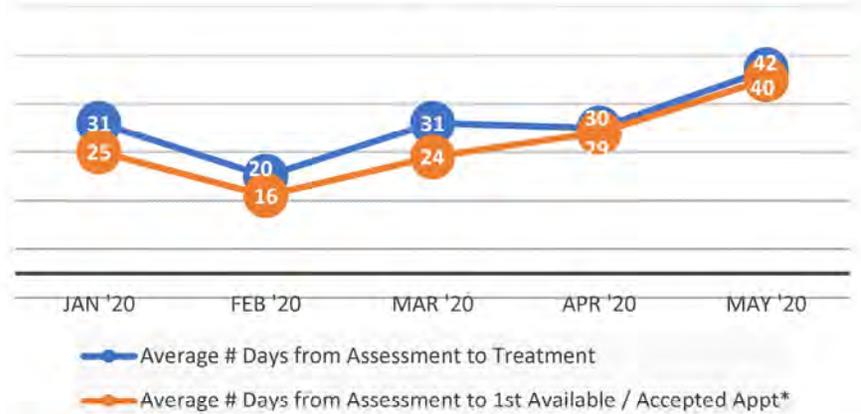
Adult Outpatient Time to Treatment - January to May 2020 by Site

Chantilly Average Time to Treatment - January to May 2020

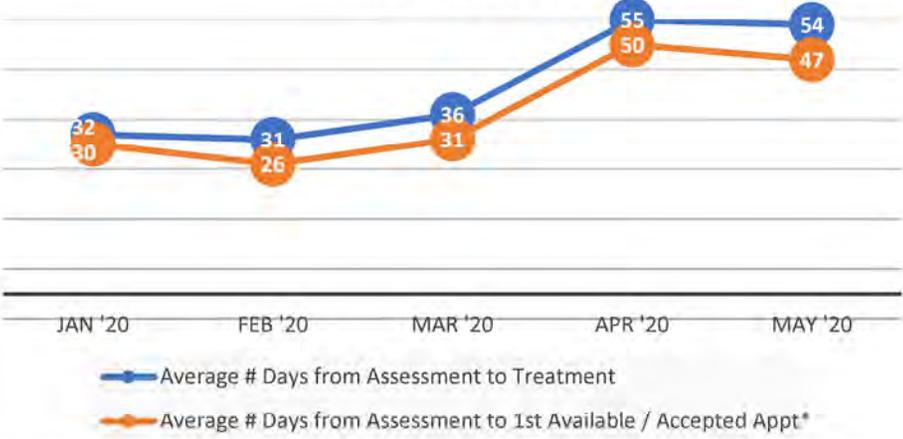


**there were no referrals from Entry & Referral that began services in May at Chantilly

Gartlan Average Time to Treatment - January to May 2020



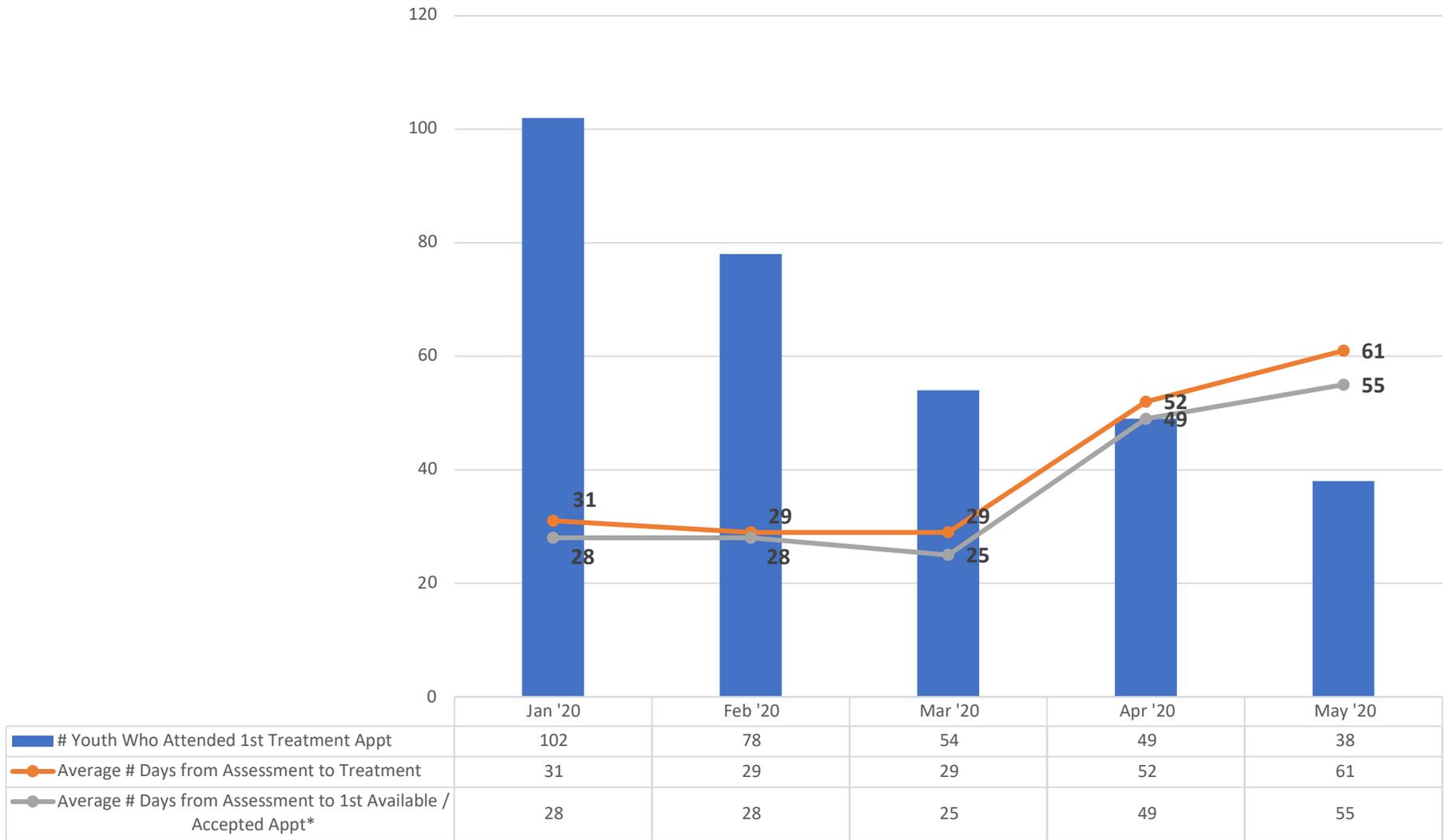
Merrifield Average Time to Treatment - January to May 2020



Reston Average Time to Treatment - January to May 2020

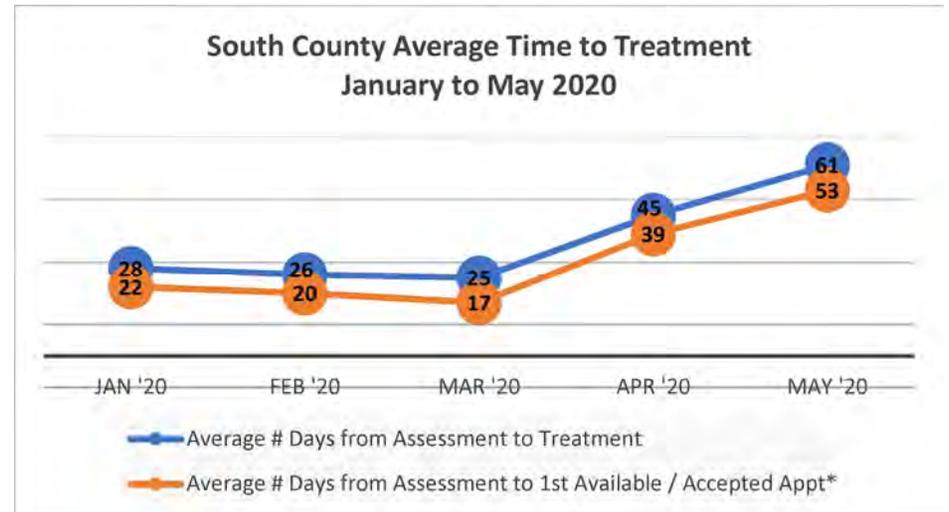
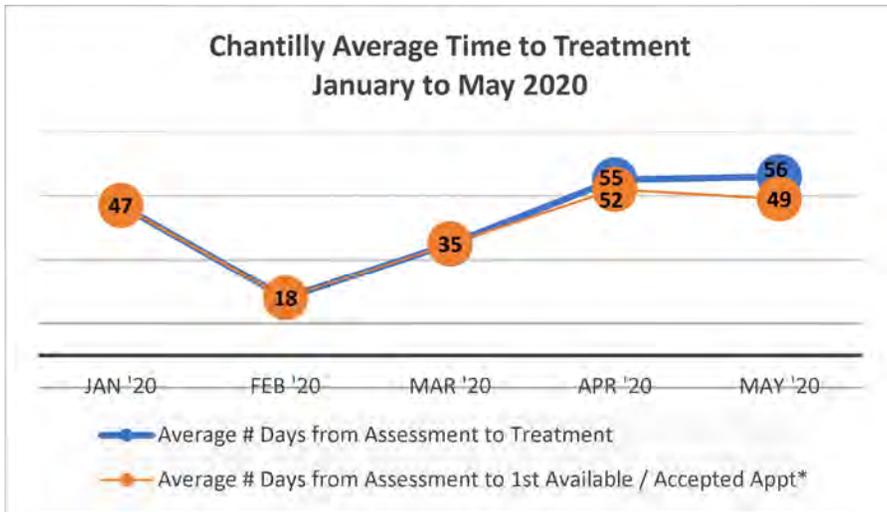


Youth Outpatient Time to Treatment - January to May 2020

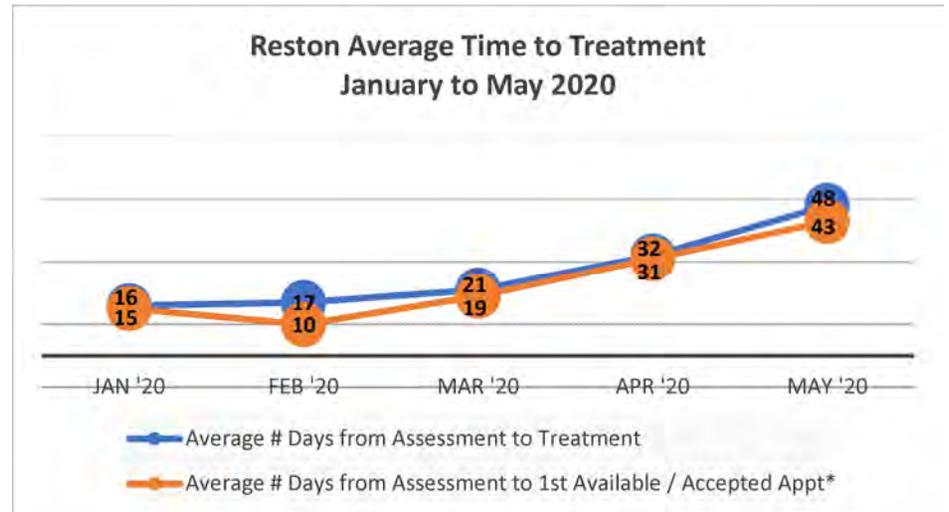
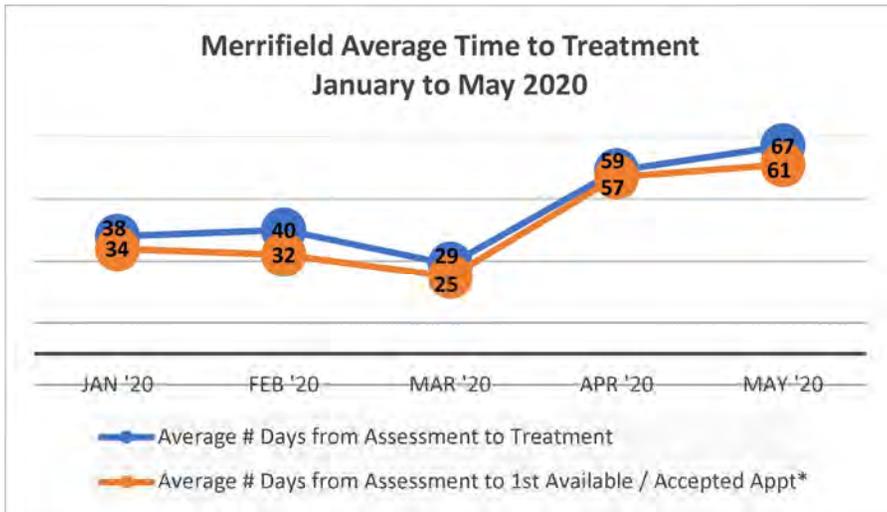


*Average number of days from Assessment to Date of First Available Appointment (if known) OR from Assessment to Date of First Accepted Appointment

Youth Outpatient Time to Treatment - January to May 2020 by Site



For Chantilly, average days from assessment to treatment AND average days from assessment to 1st available/accepted are the same for Jan - Mar 2020



**Fiscal Oversight Committee
CSB HR Update – June 23, 2020**

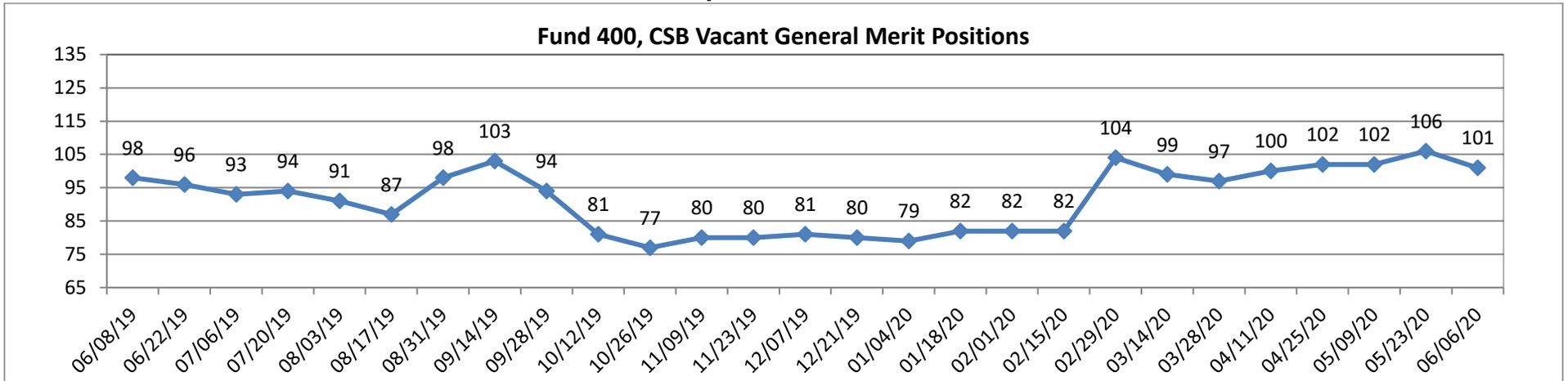


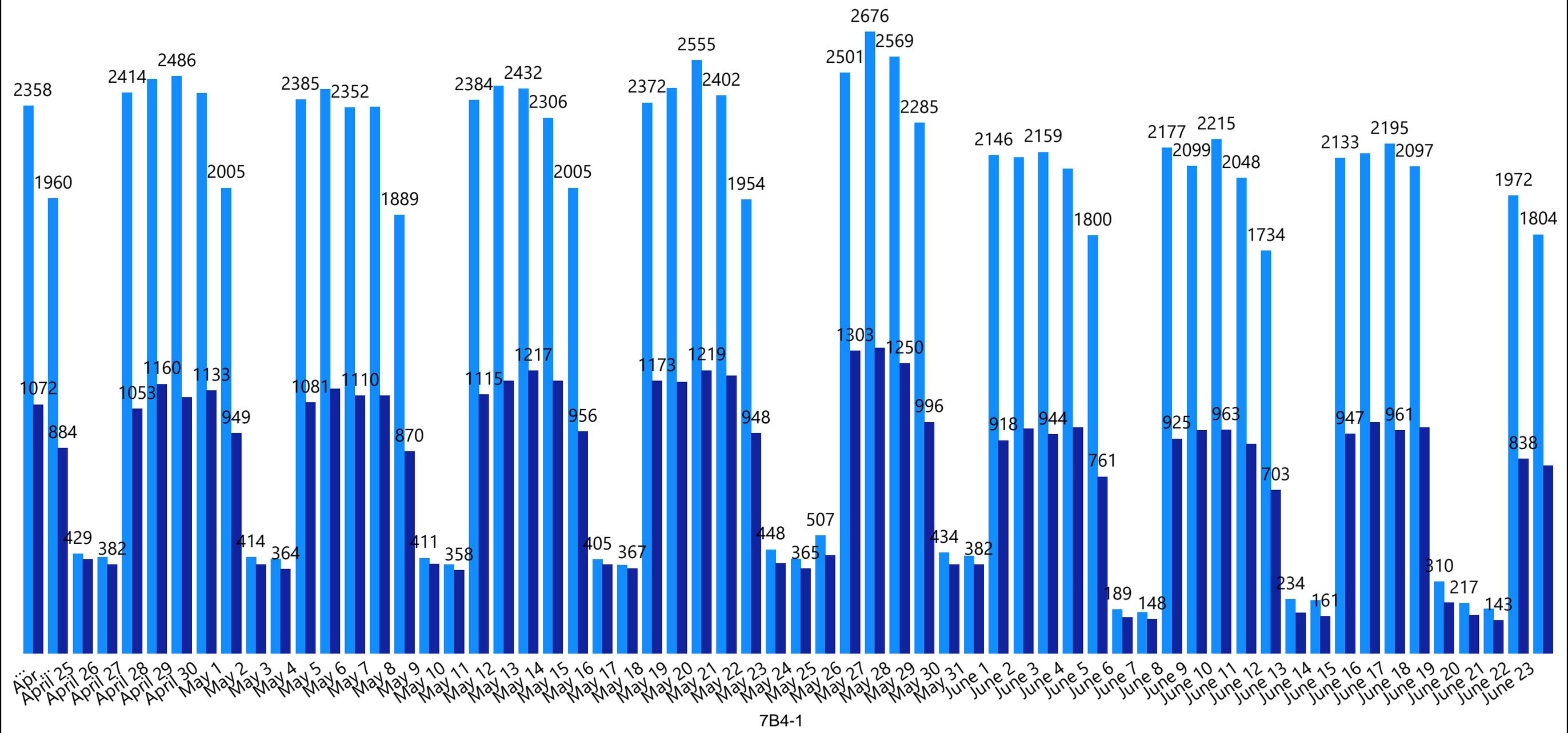
Figure 1: Increase in February 2020 reflects 24 non-merit conversions

Vacancies in critical areas* *includes all merit positions (all funds - regular and grant)

Service area / program	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May		June	
Emergency Svcs/MCU	5	5	3	4	4	2	2	3	5	6	5	6	5 CIS	5	4 CIS
													1 Peer Support Spec		1 Peer Support Spec
Behavioral Health OP Svcs	3	4	2	7	6	10	5	6	6	13	13	13	6 BHS II	15	7 BHS II
													3 BH Sr. Clin		3 BH Sr. Clin
													2 BHN Clin/Case Mgr.		2 BHN Clin/Case Mgr.
													2 LPN		2 LPN
															1 SAC
Youth & Family – OP Svcs	8	6	7	8	2	2	2	2	3	5	6	6	4 BH Sr. Clin	6	3 BH Sr. Clin
													2 BHS II		3 BHS II
Support Coordination	14	13	15	22	21	21	23	24	25	19	16	18	18 DDS II	15	15 DDS II
ADC/ Jail Diversion	4	3	4	7	9	11	11	12	10	8	8	5	4 BHS II	4	3 BHS II
													1 BH Mgr		1 BH Sup.
Compliance & Risk Mgmt.	5	5	5	2	2	2	2	2	3	3	3	3	1 MA III	2	1 MA III
													1 MA II		
													1 CSB Coordinator		1 CSB Coordinator

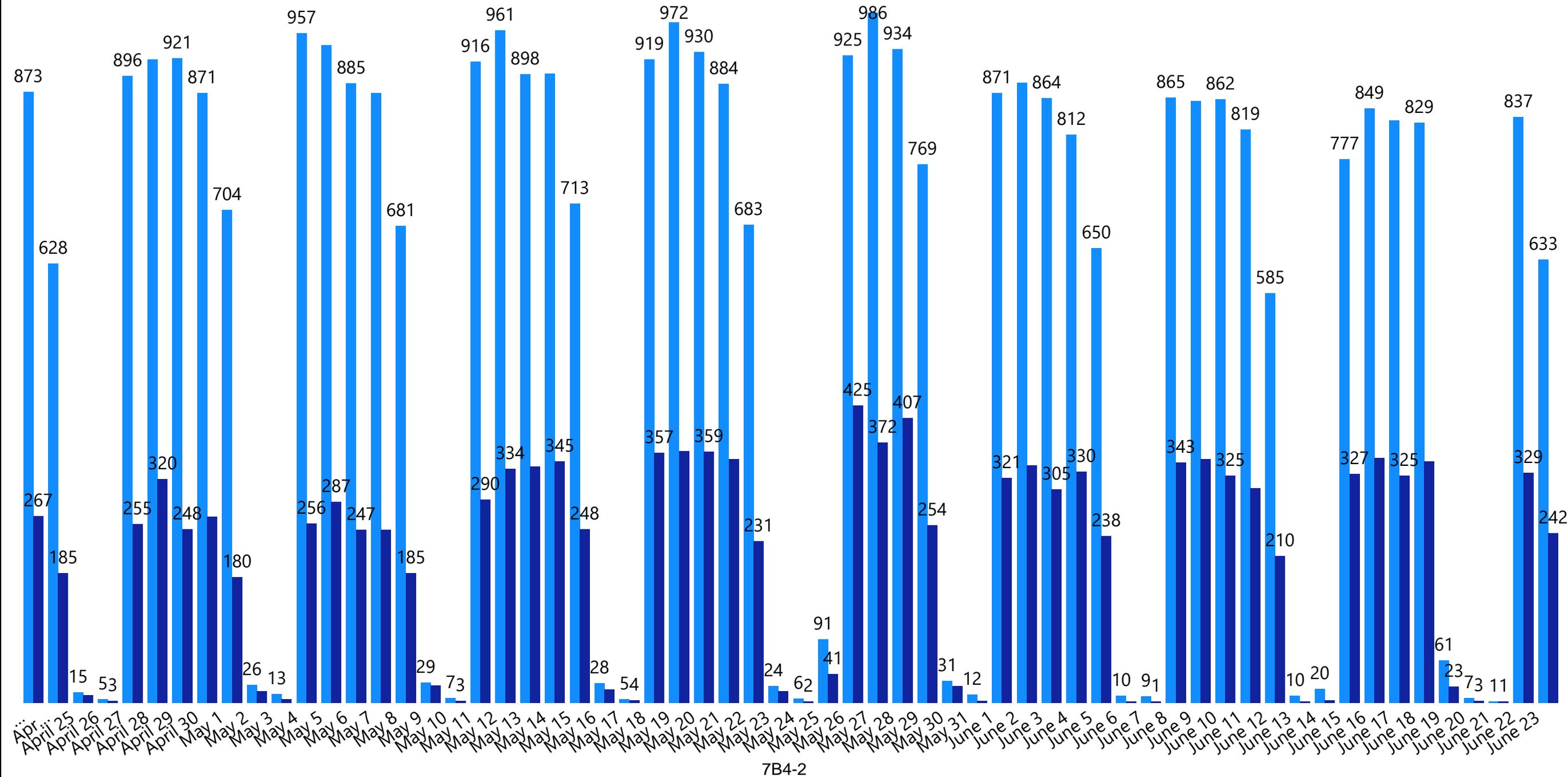
Agency Overall Count Of Clients Served

● Client Count ● F2F Count



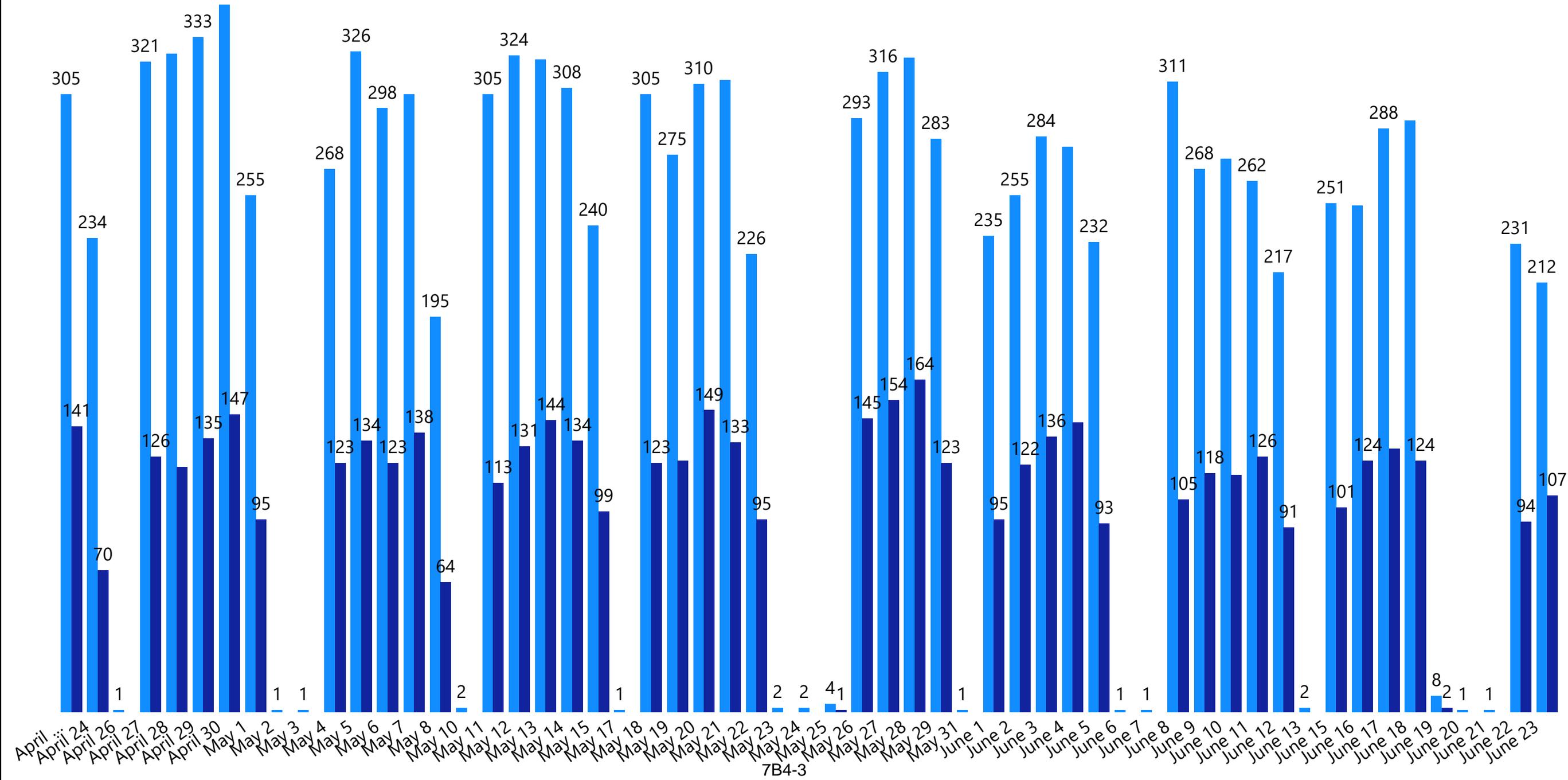
BH Adult Outpatient Count Of Clients Served

ClientCt F2F Count



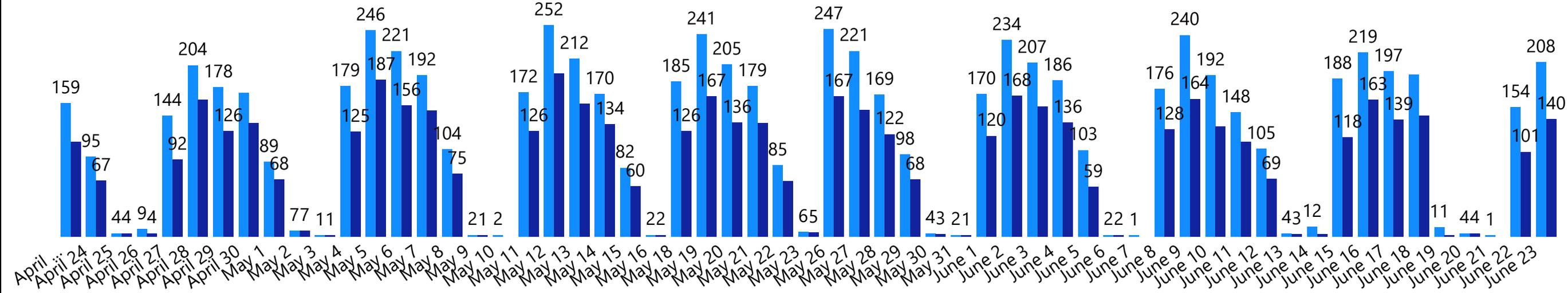
BH Youth Outpatient Count Of Clients Served

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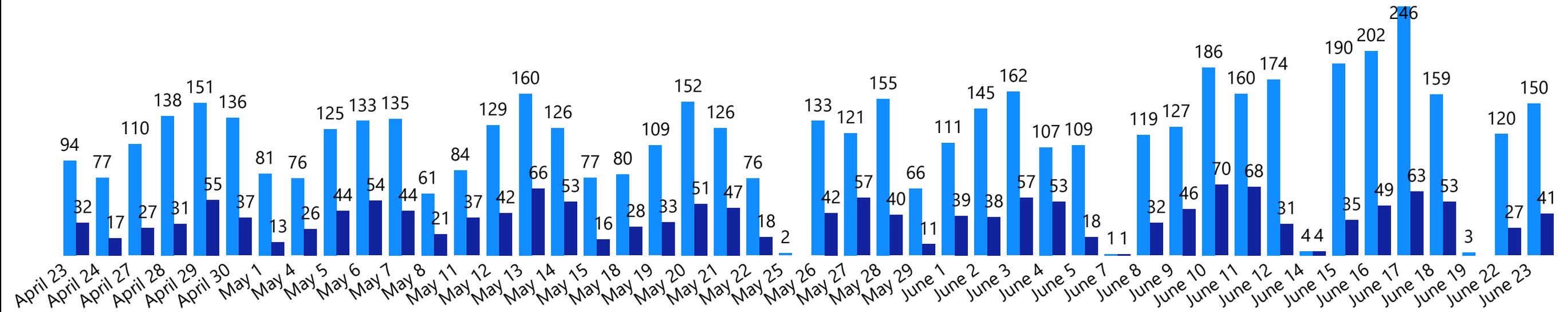
Doctors & NP Count Of Clients Served

ClientCt F2F Count



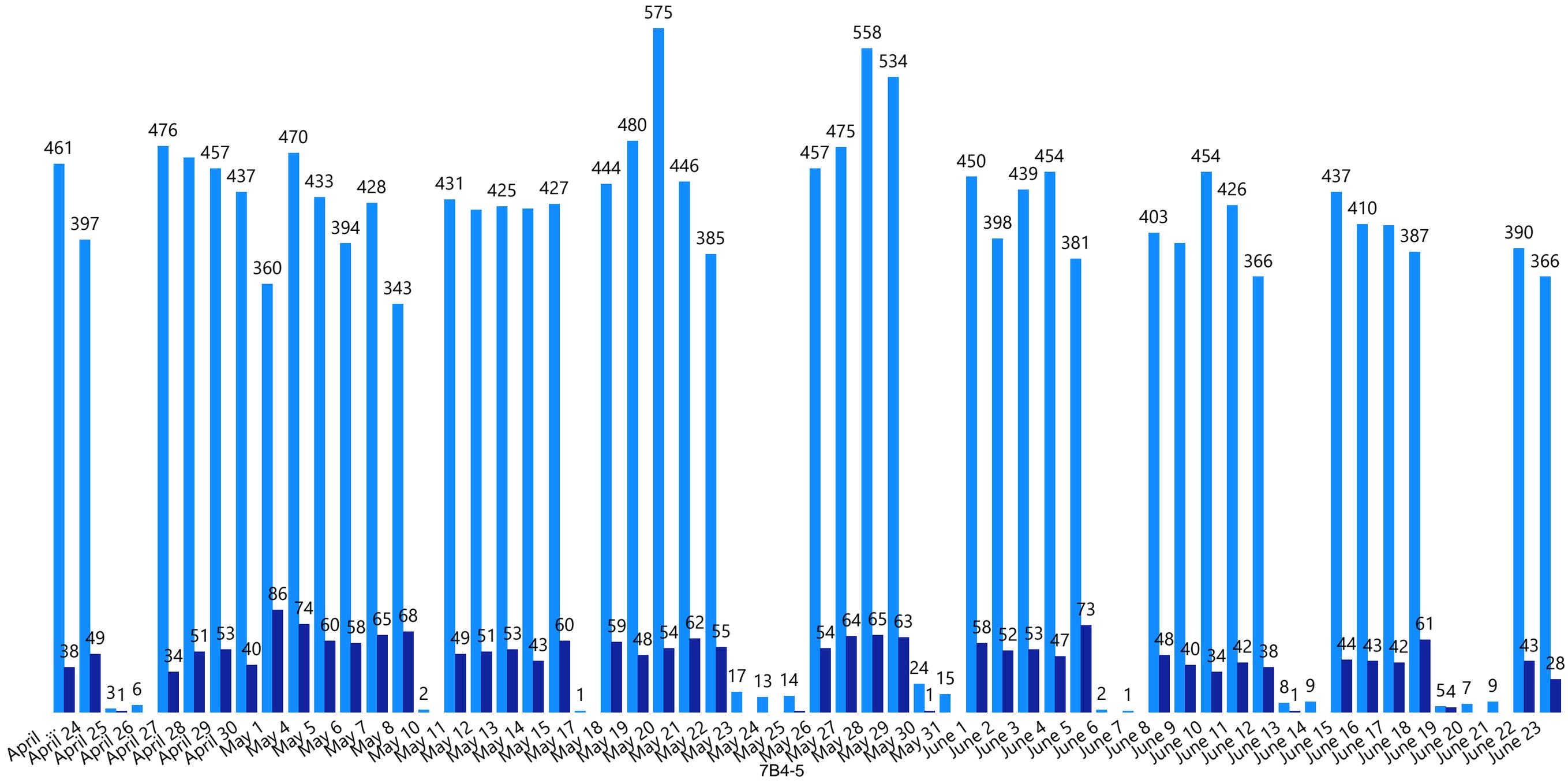
Outpatient Nursing Count Of Clients Served

ClientCt F2F Count



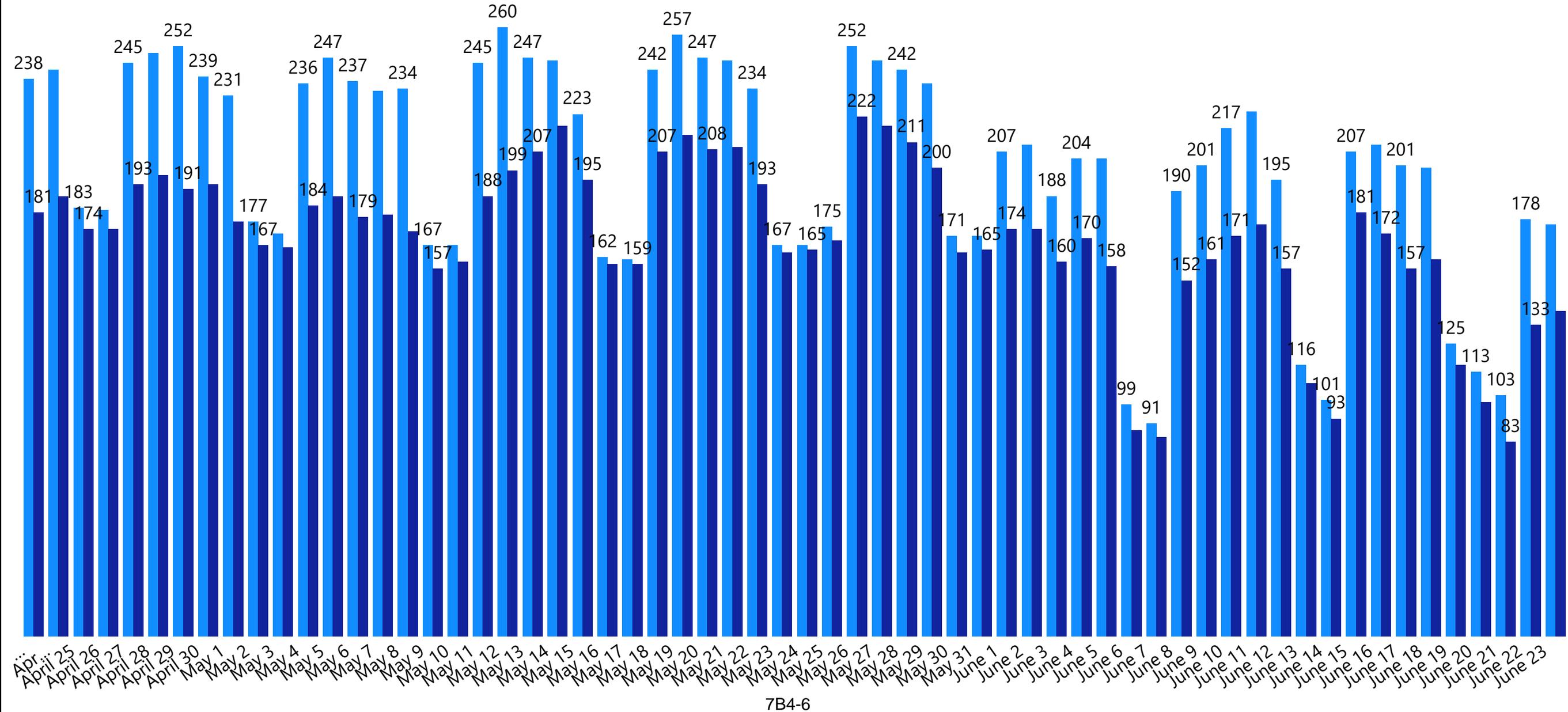
Support Coordination Count Of Clients Served

ClientCt F2F Count



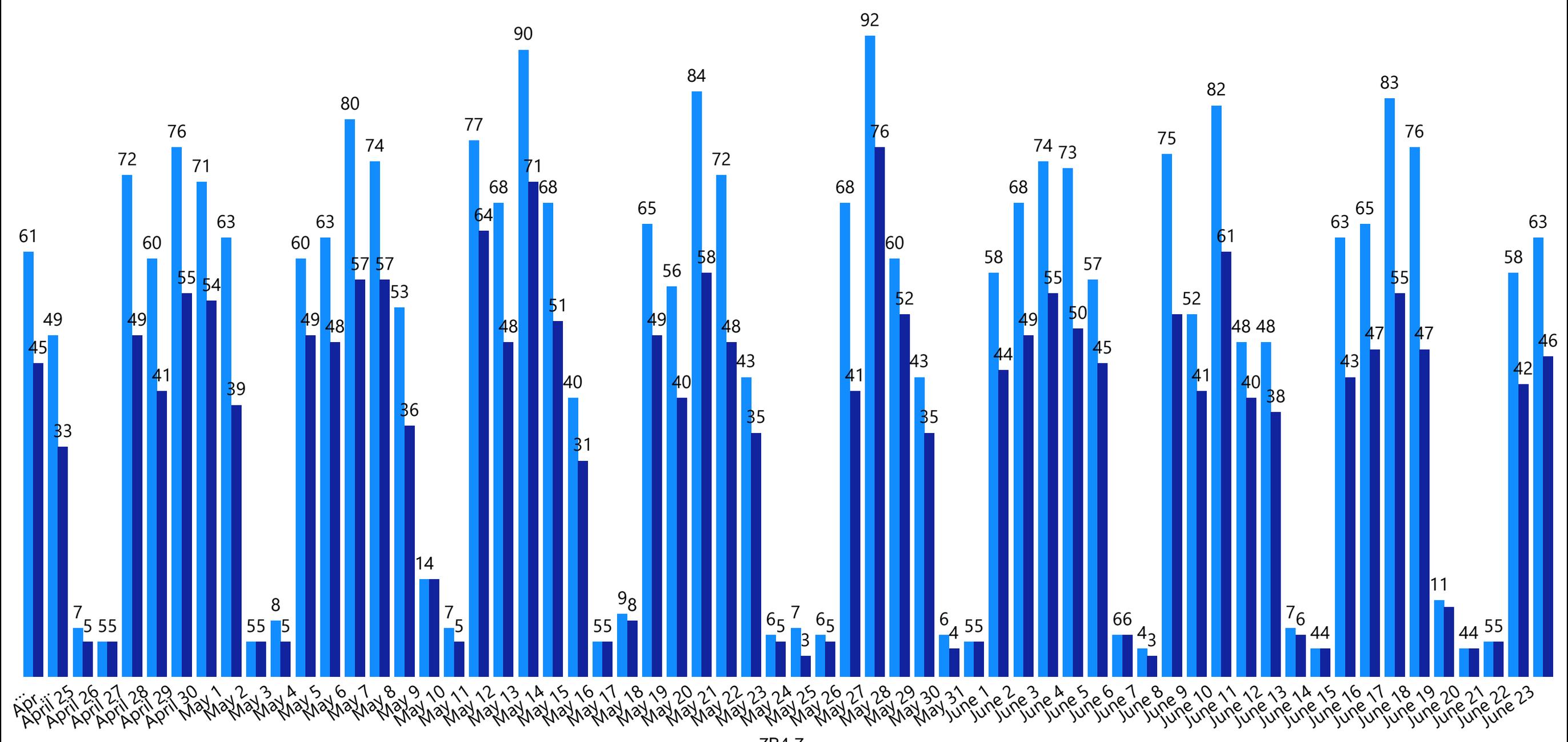
BH Residential (Directly Operated) Count Of Clients Served

ClientCt F2F Count



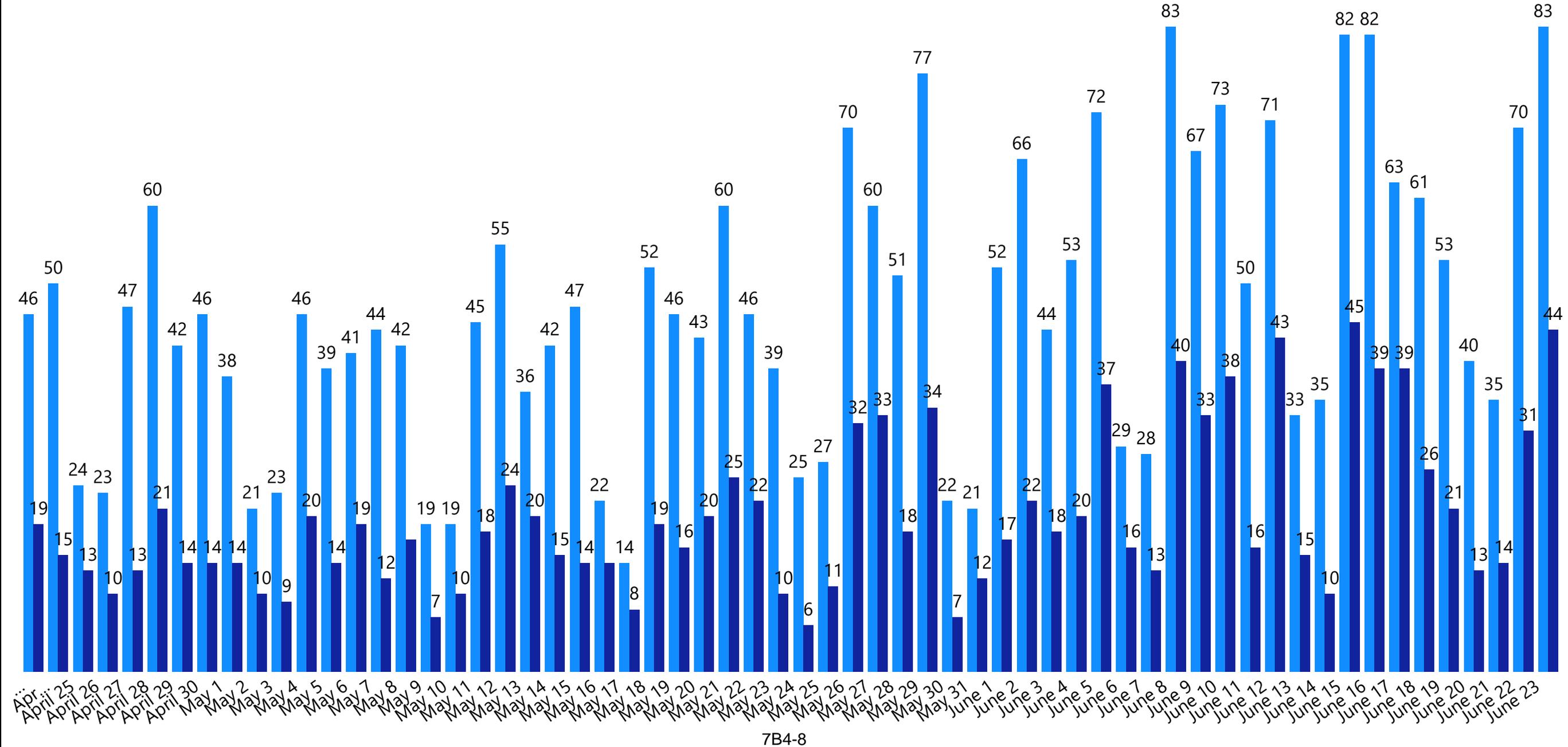
ADC/JDC/Court Count Of Clients Served

ClientCt F2F Count



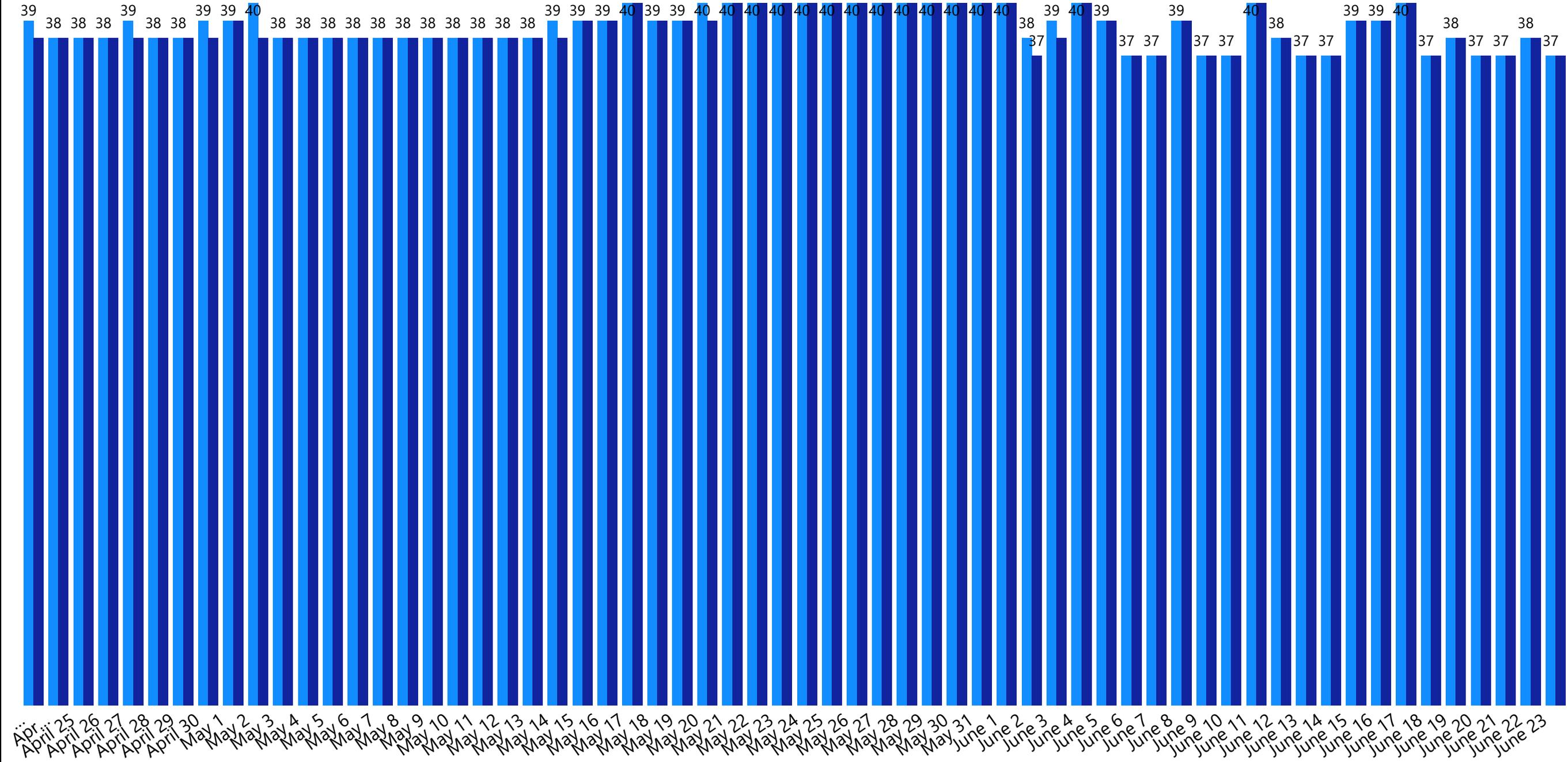
Emergency Count Of Clients Served

ClientCt F2F Count

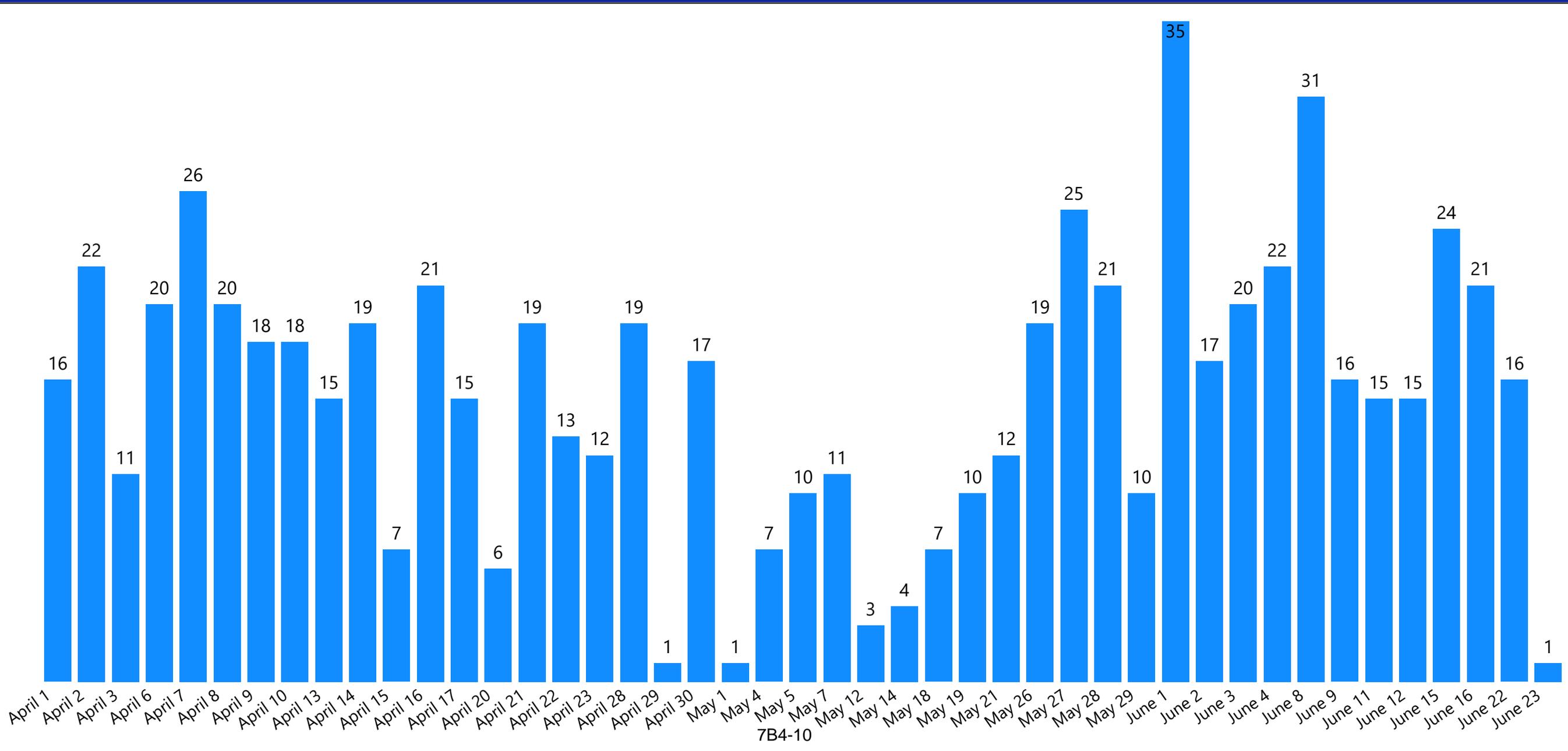


DD Residential (Directly Operated) Count Of Clients Served

ClientCt F2F Count

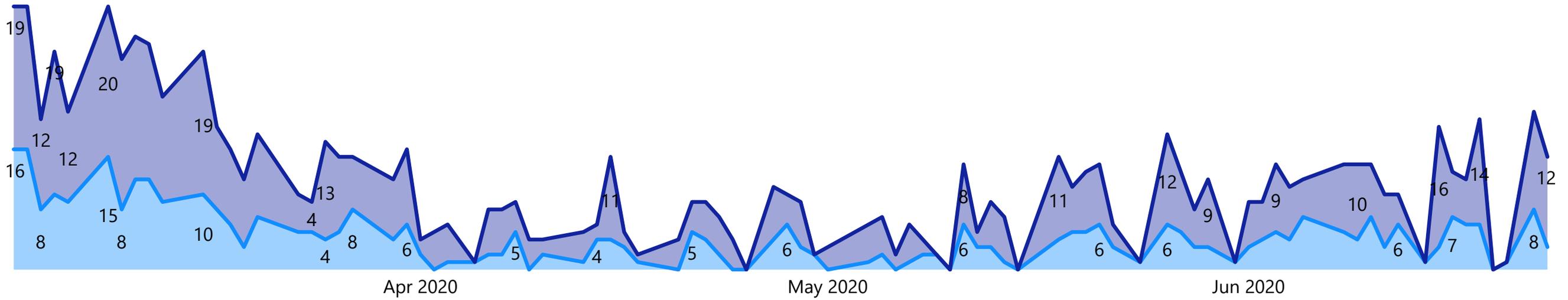


Count of Daily Calls At The Call Center

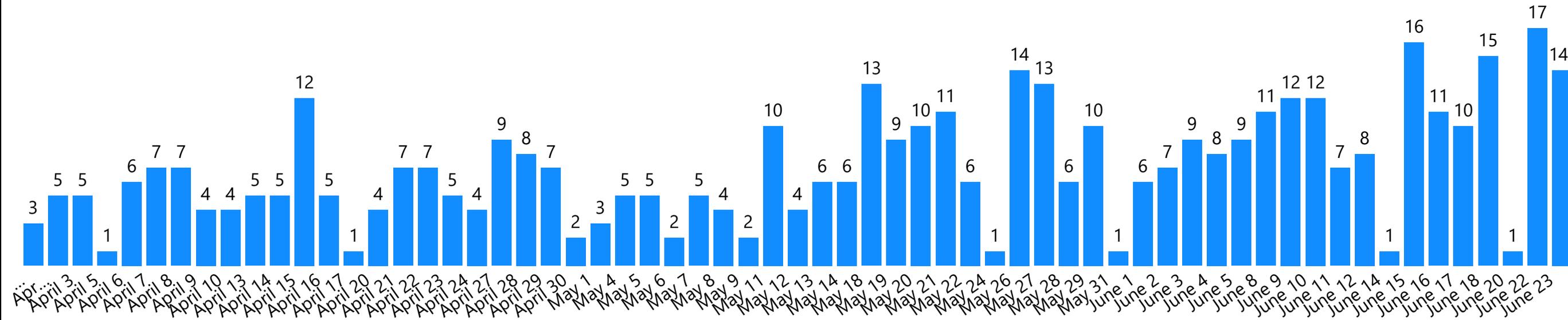


Count of Screening & Assessments By Day (EAR)

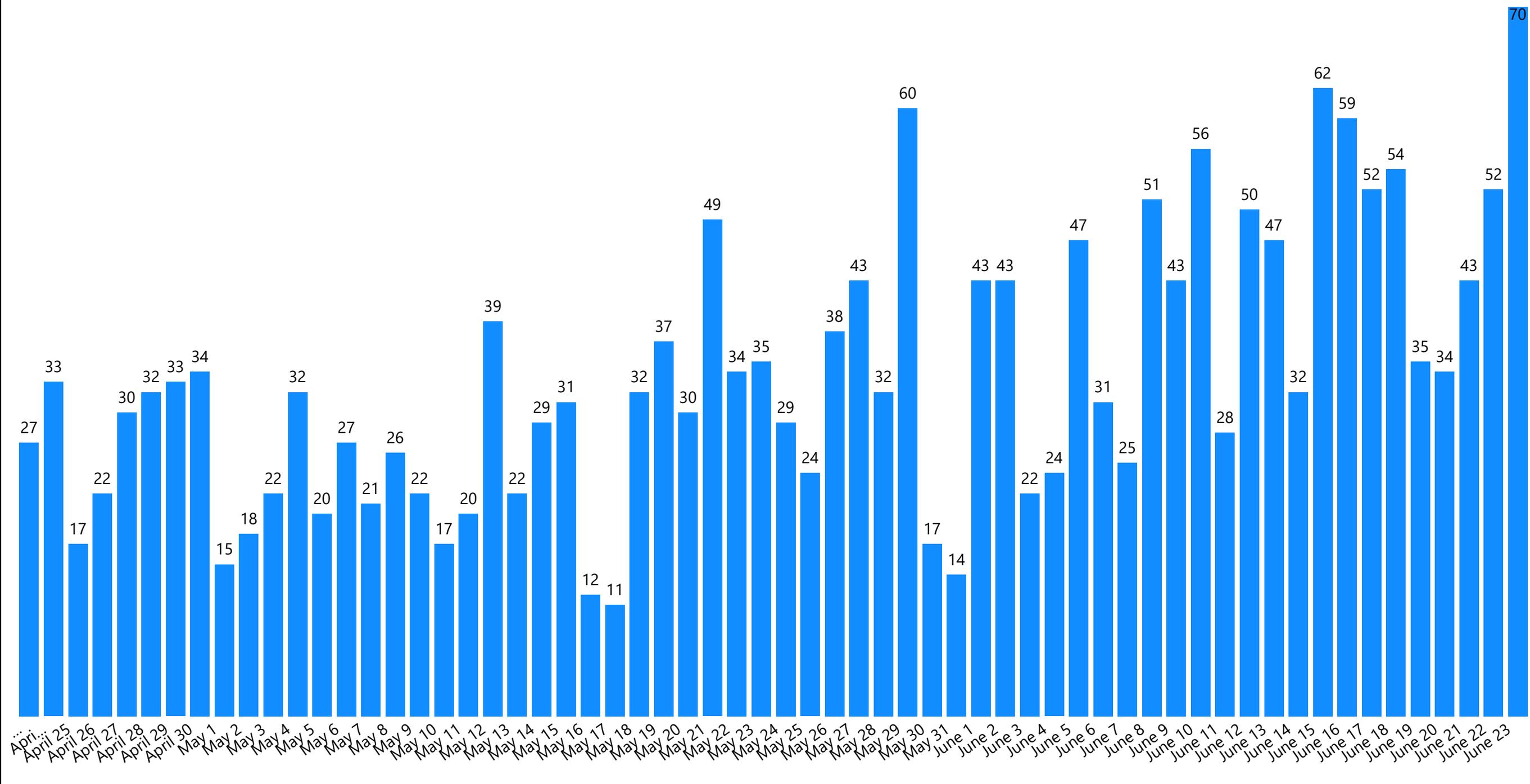
● Assessment ● Screening



Count Of Clients By Day (EAR)



Emergency Count Of Daily Telephone Calls



Overview of Fairfax County's 2021 Human Services Issue Paper

Each year, the Fairfax County Board of Supervisors adopts an annual Legislative Program for the Virginia General Assembly. The Human Services Issue Paper serves as an addendum to the state legislative program. Fairfax County takes positions in the Legislative Program and Issue Paper. County staff then advocate for legislation in Richmond with the Virginia General Assembly. The 2021 General Assembly begins on January 13, 2021.

CSB and other Fairfax County Human Services departments are currently working with the County Government Relations team to update the Human Services Issue Paper. CSB staff will be recommending updates and revisions to the document. CSB board members will review staff recommendations and provide their own edits. A timeline for this process is below.

Some years, CSB submits request for new positions. A new position is warranted if the existing Issue Paper does not address a topic of concern. This new position process must also be completed for edits to existing position statements that are so extensive as to reflect a change in policy.

The version of the entire Issue Paper we will be editing, with CSB sections highlighted, begins on the next page. The adopted 2020 documents can be accessed online under board reports here: <https://www.fairfaxcounty.gov/boardofsupervisors/>.

Timeline:

June 17: County's Legislative Director officially launches the process by sending CSB a word version of document for review

June 17: CSB staff receive sections for review and editing

June 17 - June 24: CSB staff review and incorporate their recommendations in document through track changes mode. Staff determine if any new positions should be added to document.

June 24: CSB Board made aware of this year's issue paper process

June 26: CSB staff submit feedback to Elizabeth McCartney

June 29: CSB board members receive draft for review

July 14: Deadline for CSB board members to submit edits to issue paper

July 15: Draft with board member feedback sent out to Executive Committee and Board

July 20: Final feedback from Board on edits to issue paper

July 22: Board Meeting - Action Item on approval of 2021 Human Services Issue Paper

August 3: Deadline for submitting edits to County Government Relations Team

DRAFT 2021 Fairfax County Human Services Issue Paper

DFS, OSM TO PROVIDE UPDATED STATISTICS

This human services issue paper is a supplement to the 2020 Fairfax County Legislative Program as the County’s Board of Supervisors has long recognized that investments in critical human services programs save public funds by minimizing the need for more costly public services.

Social services remain a critical need for our citizens. In 2018, there were 67,258 Fairfax County residents (5.9%, including 18,923 children) living below 100% of the Federal Poverty Level (FPL), compared to 47,832 people (including 15,467 children) in 2008. Furthermore, the number of people living in deep poverty (income less than about \$12,500 for a family of four) was 28,700 in 2018. However, the income needed to cover basic living expenses (food, housing, child and health care, transportation, etc.) in Fairfax County is far greater than 100% of the FPL – the Massachusetts Institute of Technology’s (MIT) living wage calculator shows that an adult needs over \$36,000 (almost 300% of the FPL) and a family of four needs almost \$80,000 (over 300% of the FPL). In 2018, there were 272,278 residents (24%, including approximately 78,249 children), living in households with incomes less than 300% of the FPL – about the amount considered a living wage.*

The County’s economy also suffered from federal sequestration, and accompanying federal funding cuts, which further adversely affected those already struggling. As state revenues continue to improve, it is critically important that Virginia continue to invest in local programs that ensure short- and long-term uncertainties do not threaten the safety net provided by local governments. Even as local government fiscal health has not been fully restored, maintaining a strong safety net for our most vulnerable populations remains an essential public service, valued by most of the electorate.

State and local governments must partner to:

- Protect the vulnerable;
- Help people and communities thrive;
- Link people to health services, prevention and early intervention care, adequate and affordable housing, and employment opportunities;
- Ensure that children thrive and youth successfully transition to adulthood; and,
- Build a high-performing and diverse workforce that does not need this help.

Most people want the same opportunities to survive and thrive. Meeting these personal goals sometimes requires assistance that results from a strong partnership between the Commonwealth and local government. Unfortunately, the state commonly underfunds core human services or neglects newer best practice approaches, leaving localities to fill gaps in the necessary services through local revenues to meet critical needs. Fundamentally reorganizing and restructuring programs and outdated service delivery systems can best achieve positive outcomes when such changes are developed in partnership with the local governments providing services.

*See the US Census Bureau One-Year 2018 American Community Survey for more information and the associated margins of error.

Priorities

***Affordable Housing and Homelessness Prevention* TO BE REVIEWED BY CSB, DFS, HCD, AND OPEH**

Support state funding and actions to increase the availability of affordable housing options and prevent homelessness, including expanded investments in tools and programs to address affordable housing needs, particularly in high cost of living areas like Northern Virginia.

Affordable housing is critically important for all Virginians, but obtaining it creates particular challenges in Northern Virginia, where housing is increasingly out of reach for low- and moderate-income earners. Fairfax County is already experiencing a deficit of 31,000 affordable rental homes, and the gap between the need and the supply will grow considerably without new approaches for expanding housing availability and affordability. It is anticipated that there will be a need for 15,000 new units affordable to households earning 60 percent of area median income and below over the next 15 years. The areas of greatest need in the development and preservation of affordable housing are small families and seniors. The Commonwealth should:

- Increase funding for the Virginia Housing Trust Fund (as recommended by the Virginia Department of Housing and Community Development for an additional \$13 million in FY 2020, \$30 million in FY 2021, and \$40 million in FY 2022) – this is essential to create and preserve affordable housing and reduce homelessness in Northern Virginia, where housing affordability creates substantial challenges for the economic competitiveness of the region, creating potentially negative impacts to the Commonwealth overall;
- Expand the pool of resources available for down payment assistance, as down payment costs are a major barrier to homeownership;
- Enhance and create more state-funded rental assistance programs for individuals with disabilities and people experiencing homelessness, such as the Livable Homes Tax Credit, State Rental Assistance Program (SRAP), Virginia Homeless Solutions Program (VHSP), and previously provided Housing Choice Vouchers;
- Increase funding for permanent supportive housing units (allocated based on the size of the population served) for individuals with severe mental illness, substance use disorder, and developmental disabilities; and,
- Prohibit housing discrimination based on source of income, which disproportionately impacts older adults and people with disabilities. (*Updates and reaffirms previous position.*)
The 2020 GA passed legislation prohibiting housing discrimination based on source of income.

***Mental Health, Public Safety, and the Criminal Justice System* TO BE REVIEWED BY CSB AND OSM**

Support sustainable funding, allocated based on localities’ needs and population size, for public safety and mental health services that connect people who come into contact with the criminal justice system for non-violent offenses to treatment.

Law enforcement officers are often the first responders when an individual is in a mental health crisis; the Fairfax County Police Department received nearly 4,000 calls from January – June 2019 that were mental health related. Such calls can lead to incarceration for low-level offenses (trespassing, disorderly conduct), precluding the individual from receiving appropriate treatment in the community for underlying mental health issues. Additionally, it is significantly more expensive to deliver mental health services in a detention facility than to provide the same service in community-based residential or community-based care.

To address these critical issues, Fairfax County continues to utilize local revenues for “Diversion First,” which offers alternatives to incarceration for people with mental illness, substance use disorders, or developmental disabilities who commit low-level offenses. The program has already had a significant impact – since 2016 more than 1,500 people have been diverted from potential arrest. Additionally, there has been a 19 percent decrease in the number of inmates at the Fairfax County Adult Detention Center with behavioral health issues who had only misdemeanor charges, and a 43 percent increase in the number of inmates referred to the Fairfax-Falls Church Community Services Board (CSB). Though the average daily population has decreased since FY 2008, the medical complexities of inmates has increased, with substance use and mental health disorders becoming more common.

Successful expansion of Diversion First will depend on adequate state investments in mental health services (and accompanying court and public safety resources) to:

- Increase the availability of community-based crisis services, local psychiatric beds for people with mental health issues, reintegration services for youth and adults at high risk of rapid re-hospitalization or re-offending, and discharge planning (*see also pages 11-12*);
- Provide Crisis Intervention Team (CIT) and additional de-escalation training for law enforcement officers and dispatchers, and Mental Health First Aid training for Fire and Rescue, jail personnel, and health and human service organization staff to educate those interacting with individuals with developmental disabilities, substance use disorder, and mental illness;
- Improve the screening, assessment and treatment of incarcerated individuals’ mental health by gathering uniform system level data;
- Support the development and expansion of specialty courts and dockets;
- Remove barriers in order to facilitate the exchange of health information of individuals among law enforcement, the court system, CSBs, health care providers, and families and guardians;
- Expedite the medical clearance process for individuals in need of psychiatric hospitalization;
- Increase funding of mental health services and substance abuse treatment for individuals who are incarcerated for offenses that make them ineligible for a diversion program; and,
- Remove barriers to reentry by providing adequately funded forensic discharge planning services. (*Updates and reaffirms previous position. See also the Courts position in the 2020 Legislative Program.*)

Substance Use Disorder TO BE REVIEWED BY CSB, HEALTH, LTCCC, AND OSM

Support increased capacity to address the Commonwealth’s ongoing substance use disorder epidemic through community-based treatment (including detoxification, medication-assisted, residential, and intensive outpatient programs) and innovative efforts to limit the supply of opioids.

Across Virginia, law enforcement and health care professionals continue to report a dramatic number of deaths due to opioid overdoses. Although some improvements are beginning to emerge, the statistics remain startling:

- Opioids are the number one cause of unnatural death in Fairfax County;
- There were 83 opioid deaths in Fairfax County in 2018, and 64 of these deaths involved fentanyl and fentanyl analogs (in Virginia, fentanyl and fentanyl-analog overdose deaths have increased by more than tenfold since 2009);
- Although there was a small decrease in overall opioid overdose deaths in Virginia from 2017 to 2018 (from 1,230 to 1,215), Virginia is on track to have a record of nearly 1,300 deaths from opioid overdoses in 2019;
- In Fairfax County, the annual number of emergency department visits for opioid overdoses is still significantly higher than it was in 2013 (60 in 2013 vs. 211 in 2018);
- The highest rate of emergency department visits for heroin/fentanyl and fentanyl-analog overdoses in Fairfax County was among individuals aged 25-34 (25 per 100,000 people) in 2018;
- The highest rate of prescription opioid overdoses in Fairfax County was also among individuals aged 25-34 (25 per 100,000 people);
- Approximately 900 Fairfax County students in the 8th, 10th, and 12th grades reported taking painkillers without a doctor’s order, and nearly 1,100 reported taking other prescription drugs without a doctor’s order, within a month of the survey date in November 2018; and,
- For the sixth year in a row, the statewide rate of drug-caused deaths exceeded the number of deaths due to motor vehicle accidents.

Also, support coordinated strategies to meet the growing need for substance use disorder services that target specific high-risk age groups. In particular, innovative approaches to prevention (such as an e-cigarette tax) and nicotine addiction treatment are necessary to address the vaping crisis that is affecting teens and young adults at an alarming rate.

E-cigarettes are the most commonly used tobacco product among youth today. Despite being fairly new, in 2018 more than 3.6 million American middle and high school students reported using e-cigarettes in the previous 30 days. In Fairfax County, among students surveyed in the 8th, 10th and 12th grades, more students reported vaping within a month of the survey date in November 2018 than using any other substances, and lifetime prevalence rates were high across all age groups (15.1 percent of 8th graders, 29.5 percent of 10th graders, and 39.3 percent of 12th graders). Though e-cigarettes became popular because they have been considered less harmful than regular cigarettes, the recent discovery of severe respiratory illness in otherwise healthy young people as a deadly complication of vaping has raised alarm throughout the US.

While the Commonwealth of Virginia has taken action to combat these issues, including efforts to control the supply of opioids and increase the age to purchase all tobacco products to 21, significant challenges still exist. Complementary strategies, including well-funded, sustained intervention and education efforts, should be designed to support teens and young adults, many of whom may require specialized care to combat addiction. An e-cigarette tax could be a particularly helpful prevention tool, as research shows taxing tobacco is one of the most effective ways to reduce use. Under current Virginia law, Fairfax County is one of two counties that have authority to levy a tax on traditional cigarettes, though it is capped at the state rate of \$0.30 per pack – that cap should be eliminated and the authority should be expanded to include e-cigarettes, which could then be utilized to strengthen the deterrent for using both cigarettes and e-cigarettes. (*Updates and reaffirms previous position.*) **The 2020 GA passed equal taxing authority legislation, which allows counties to tax cigarettes at \$0.40 per pack.**

Position Statements

Medicaid Waivers TO BE REVIEWED BY CSB, DFS, DSB, AND LTCCC

Support state funding and expansion for Virginia’s Medicaid waivers that provide critical home and community-based services for qualified individuals. Also, support increased funding for developmental disability (DD) Medicaid waivers and slots, to provide appropriate community services and ensure the Commonwealth fulfills its responsibility to implement the federal settlement agreement.

Medicaid funds both physical and mental health services for low-income children and parents, pregnant women, older adults, and people with disabilities. It is funded by the federal and state governments and administered by the states. Federal funding is provided based on a state’s per capita income – the federal government shares 50 percent of the cost of Virginia’s Medicaid program (the exception is that under the recent Medicaid expansion the federal share is higher for newly eligible populations, but that does not affect waiver rates). Because each dollar Virginia puts into the Medicaid program draws down a matching federal dollar, what Medicaid will fund is a significant factor in Virginia’s human services spending. However, states set their own income and asset eligibility criteria within federal guidelines.

Each state also has the discretion to design its own Medicaid service program. Virginia offers fewer optional Medicaid services than many other states (in addition to federally mandated services), though a small number of Medicaid recipients in Virginia may also receive coverage through home and community-based “waiver” programs. Such programs allow states to “waive” the requirement that an individual must live in an institution, or that a service must be offered to the entire Medicaid population, to receive funding. Waiver services are especially important for low-income families, older adults, people with disabilities, and individuals with chronic diseases in Virginia, where Medicaid eligibility is highly restrictive, and they help ensure community-based options are available, in keeping with best practices. In addition, Medicaid waivers are an integral component of the Commonwealth’s settlement agreement with the US Department of Justice (DOJ) – the state redesigned waivers for individuals with DD as part of its shift from an institution-based system to a community-based system.

The number and types of waivers are set by the General Assembly (GA). Long, growing waiting lists demonstrate the barriers that exist in the Commonwealth. Current Virginia waivers include: Commonwealth Coordinated Care (CCC) Plus, Community Living (CL), Family and Individual Supports (FIS), and Building Independence (BI). Waivers fund services such as personal assistance to live independently in a home, residential and employment services, environmental modifications, assistive technology, nursing services, and other therapeutic services which support individuals with severe disabilities to live as independently as possible in their community.

Fairfax County supports the following adjustments in Medicaid waivers:

- An increased number of DD Medicaid waiver slots (at present the state is not even fully funding the Priority One waiting list). **The 2020 GA passed legislation adding 250 waiver slots in FY 2022.**
- Automatic rate increases, including an increase in the Northern Virginia rate, to reflect actual costs.
- Improvements to the process for negotiating the approval and re-approval of customized rates for individuals with intensive behavioral and health needs who cannot be adequately served through the standard DD waiver rate structure.
- Expansion of home and community-based services by incorporating the Community First Choice (CFC) option into Virginia’s 2020 Medicaid state plan.
- Enhancement and preservation of the CCC Plus Waiver, and elimination of the weekly 56-hour cap on personal attendant care hours.
- Fully funded reimbursements for nursing and behavioral consultation, training, monitoring, and supports.
- Increased state funding to support a sustainable, well-trained workforce in residential, employment and day support settings, including higher reimbursement rates to hire and retain professional nurses.
- Expansion of REACH (Regional Education Assessment Crisis Services and Habilitation) in-home crisis supports, access to appropriate intensive residential support options, and community-based crisis services for individuals with disabilities.
- Enacting a comprehensive Medicaid Dental Benefit for adults. Coverage for dental services in Medicaid will improve chronic disease outcomes, reduce the number of opioid prescriptions written for dental pain in emergency rooms, and prevent costly and painful dental disease. *(Updates and reaffirms previous position.)*

Children and Families

Children’s Services Act (CSA) TO BE REVIEWED BY DFS

Support continued state responsibility for funding mandated CSA services on a sum sufficient basis. Oppose changes to CSA that shift costs to local governments, or disrupt the responsibilities and authorities assigned to the County by CSA. Also support the current structure, which requires that service decisions are made at the local level and are provided based on the needs of each child, ensuring that service expenditures are approved through local processes.

The Children’s Services Act provides funding to plan and provide services to children who: have serious emotional or behavioral problems; need residential care; need special education through a private school program; or, receive foster care services. It is a state-local partnership requiring an aggregate local match of approximately 46 percent. Children receiving certain special education and foster care services are the only groups considered mandated for service, and sum sufficient language ensures state and local governments provide funding necessary for such youth. (*Updates and reaffirms previous position.*)

Child Care Services **TO BE REVIEWED BY NCS**

Support state child care funding for economically disadvantaged families not participating in TANF/VIEW, and support an increase in child care service rates. Also, support maintaining Fairfax County’s local permitting process for family child care providers serving four or fewer non-resident children.

A secure source of General Fund dollars is needed statewide to defray the cost of child care, protecting state and local investments in helping families move off of welfare and into long-term financial stability. Research shows that the financial independence of parents is jeopardized when affordable child care is out of reach, and without subsidies, working families with low incomes may not access the quality child care and early childhood education that helps prepare young children for kindergarten (families in Fairfax County receiving subsidies have an annual median income of \$29,500, while the cost of full-time care for a preschooler at a child care center ranges from \$14,000 to over \$19,500 per year). Many of these families are “the working poor” who require assistance with child care costs to achieve self-sufficiency. (*Updates and reaffirms previous position.*)

Early Intervention Services for Infants and Toddlers with Disabilities/Part C **TO BE REVIEWED BY NCS**

Support increased and sustainable funding and infrastructure for Part C Early Intervention, which is a state/federal entitlement program that provides services for Virginia’s infants and toddlers with developmental delays.

The Commonwealth contracts with the Fairfax County Department of Neighborhood and Community Services to provide early intervention service coordination and therapeutic services for infants and toddlers with developmental delays in areas such as speech, eating, learning, social interactions and movement (as part of the Commonwealth’s compliance with the federal Individuals with Disabilities Education Act (IDEA) Part C grant). The benefits of early intervention continue to be supported by research and the demand for services to eligible children continues to grow at a rapid pace. The increase in the number of children diagnosed with autism and the growing number of children born substance exposed has directly impacted the number of children eligible to receive this support. (*Updates and reaffirms previous position.*)

School Readiness **TO BE REVIEWED BY NCS**

Support increased state resources and operational flexibility for early childhood education programs, including the Virginia Preschool Initiative (VPI), in order to eliminate barriers and allow localities to expand these critical programs. In Fairfax County, state VPI funding provides about one-fifth (\$3,163) of the actual cost (approximately \$18,000) of serving a child, which is insufficient to expand the program under current requirements.

Increasing funding while providing flexibility, including to serve children in non-public school classroom settings, is essential. Providing VPI services in community early childhood programs, including centers and family child care homes, is a key strategy for addressing capacity challenges in public school settings (for example, if Fairfax County were to use all available slots to serve children in only public school classrooms more than 40 additional classrooms would be needed, creating a substantial capacity challenge). An additional membership verification window to confirm VPI eligibility for families enrolling after the initial fall membership verification date would allow improved access to this important program. Additionally, a state waiver allowing Fairfax County to increase program income eligibility from 250 to 300 percent of the FPL would help address the challenges families experience due to the high cost of living in Northern Virginia.

Research has increasingly shown the importance of high-quality early childhood education programs to children’s cognitive and social-emotional development and their school success. Business and military groups, including the US Chamber of Commerce and Mission: Readiness, have cited potentially positive impacts on national economic security, linking early childhood education and the creation of a qualified workforce. A realigned state school readiness governance structure would facilitate the creation of a unified early childhood system in the Commonwealth that can best promote positive outcomes for children and support the future workforce. (*Updates and reaffirms previous position.*)

Foster Care/Kinship Care TO BE REVIEWED BY DFS

Support legislation and resources to encourage the increased use of kinship care, including the development of a legal framework, such as guardianship, to allow kinship caregivers to make decisions for children in their care.

Through kinship care, children live with a suitable relative, allowing them to remain connected to family and loved ones and providing improved outcomes (children can also be placed in kinship care voluntarily by their parents without going through the foster care system). These kinship care arrangements are typically informal, with no legal agreements in place between the parents and the kin caregiver (in many cases, legal custody is not an option due to cost or an interest in avoiding a potentially adversarial legal process). Guardianship is a formal legal process allowing courts to grant legal authority to kinship caregivers to act on behalf of a child, and is an alternative allowed in many states. The legal authority granted through guardianship would provide kinship caregivers the ability to make medical or educational decisions for the children in their care, authority they do not have under current kinship care arrangements. Although the 2018 GA made progress by establishing the Kinship Guardianship Assistance Program, which allows for the payment of Title IV-E foster care maintenance payments to kinship providers under certain circumstances, further legislation is needed to grant legal authority, such as guardianship, to kinship caregivers. (*Updates and reaffirms previous position.*) **The 2020 GA passed legislation expanding eligibility for the Kinship Guardianship Assistance Program to include fictive kin, and addressed other barriers to kinship guardianship through required Department of Social Services training and revisions to the approval process.**

Youth Safety TO BE REVIEWED BY CSB AND NCS

Support additional state funding to prevent and reduce risk factors that lead to youth violence, gang participation, alcohol/drug use, and mental health problems, while increasing protective factors, including mental wellness, healthy coping strategies, and resilience.

Research has identified a set of risk factors that predict an increased likelihood of drug use, delinquency, mental health problems, and violent behavior among youth. These factors include traumatic experiences and early aggressive behavior; lack of nurturing by caregivers; and, availability of alcohol and drugs. Conversely, research has identified strong parenting and positive involvement from caring adults, developed social skills, and involvement in community activities as protective factors; funding is needed to implement evidence-based, effective strategies to strengthen such protective factors and resilience, and to prevent and reduce risk factors that lead to youth violence, gang participation, alcohol/drug use, and mental health problems. (*Updates and reaffirms previous position.*)

Older Adults and People with Disabilities

Disability Services Board (DSB) TO BE REVIEWED BY DFS, DSB, AND LTCCC

Support reinstatement of state funding sufficient to enable every locality, either singly or regionally, to have a DSB, so that the key provisions of § 51.5-48 can be implemented.

DSBs enable localities to assess local service needs and advise state and local agencies of their findings; serve as a catalyst for the development of public and private funding sources; and, exchange information with other local boards regarding services to persons with physical and sensory disabilities and best practices in the delivery of those services. (*Updates and reaffirms previous position.*)

Independence and Self-Sufficiency for Older Adults and People with Disabilities TO BE REVIEWED BY DFS, DSB, AND LTCCC

Support funding for programs (including Money Follows the Person initiatives) that promote the independence, self-sufficiency, and community engagement of older adults and people with disabilities.

Services to keep older adults and adults with disabilities in their own homes (such as personal assistance, nutrition and home-delivered meals, transportation, service coordination, and adult day/respite supports) provided by the twenty-five Area Agencies on Aging (AAAs) save Virginia taxpayers money while helping older Virginians function independently, decreasing the risk of inappropriate institutionalization and improving overall life satisfaction and mental health. Additionally, critical Chore and Companion Services assist eligible older adults and people with disabilities with activities of daily living (such as getting dressed, bathing, housekeeping, and laundry). (*Updates and reaffirms previous position.*)

Accessibility TO BE REVIEWED BY CSB, DFS, DSB, AND LTCCC

Support ensuring the inclusion of people with disabilities throughout the Commonwealth by increasing accessibility to public places, housing, and transportation services (including transportation network companies).

Over 81,500 Fairfax County residents have a disability, which includes people with hearing, vision, cognitive, ambulatory, self-care, and/or independent living disabilities. While significant progress has been made toward ensuring the equality and inclusion of people with disabilities since the passage of the Americans with Disabilities Act (ADA) nearly 30 years ago, continued advancement is needed to ensure the protections offered by the ADA are strengthened. Additional affordable, accessible, integrated housing and transportation options, as well as support for Universal Design initiatives, allow people with disabilities to remain active, contributing members of their communities while retaining their independence and proximity to family and friends. *(Updates and reaffirms previous position.)*

Adult Protective Services (APS) TO BE REVIEWED BY DFS AND LTCCC

Support state funding for additional APS social workers.

APS conducts investigations and protects older adults and incapacitated adults from abuse, neglect, or exploitation through the provision of casework services, home-based care assessments and coordination, and Medicaid and Auxiliary Grant pre-admission screenings. As the older adult population has increased in Virginia, along with a corresponding demand for APS services, state funding for APS positions has remained stagnant. *(Updates and reaffirms previous position.)*

Brain Injury TO BE REVIEWED BY CSB, DFS, DSB, AND LTCCC

Support expansion of psychiatric and behavioral services for individuals with brain injuries.

Nearly 400,000 Virginians are estimated to be disabled as a result of brain injury, which can be a life-altering event. However, with appropriate treatment and services individuals can improve their independence and quality of life. Unfortunately, there is a significant, unmet need for specialized community-based assessment/treatment programs, often requiring Virginians with brain injury to go out of state to receive treatment. *(Updates and reaffirms previous position.)*

Health, Well Being, and Safety

Temporary Assistance for Needy Families (TANF) TO BE REVIEWED BY DFS

Support a continued increase in the TANF reimbursement rates in Virginia.

Following more than a decade of flat TANF reimbursement rates, increases were provided in several recent GA sessions (resulting in a \$51 per month cumulative increase for a family of three). Despite this recent progress, Virginia TANF benefit levels remain at or below 27 percent of the FPL for all family household sizes, and when adjusting for inflation, studies show that Virginia TANF benefits are nearly 26 percent lower than they were when the program first formed in 1996. Given the existing surplus of TANF block grant funds in Virginia (estimated at nearly \$125 million as of June 2019), the GA should continue to increase TANF payments for this vulnerable population. *(Updates and reaffirms previous position.)*

Domestic and Sexual Violence TO BE REVIEWED BY DFS

Support additional state funding and efforts to increase the capacity for localities to implement prevention and intervention services to eliminate domestic and sexual violence, including support for evidence-based, quality programs that provide education and rehabilitation for offenders to help end the cycle of violence. Also support legislation to strengthen protective orders (POs), such as: requiring family abuse PO respondents to

immediately surrender firearms directly to law enforcement; expanding the prohibition on knowingly possessing a firearm to include non-family abuse PO respondents; and, providing judges with greater discretion to extend and/or increase the time period of POs.

Research shows that domestic and sexual violence are major public health problems with serious long-term physical and mental health consequences, as well as significant social and public health costs. Witnessing domestic violence is considered an adverse childhood experience and can be extremely problematic for children, leading to depression, anxiety, nightmares, and academic disruptions; both female and male adults with lifetime victimization experience are significantly more likely to report chronic issues (including headaches, pain, and sleep problems) as well as long-term health problems (including asthma, diabetes, anxiety, depression, and alcohol/drug abuse). *(Updates and reaffirms previous position.)* **The 2020 GA passed legislation creating a new Domestic Violence Prevention Fund, and provided some funding. The funding was unallotted by the Governor’s amendments.**

Behavioral Health

STEP-VA TO BE REVIEWED BY CSB

Support funding, commensurate with the size of the population served, for implementation of STEP-VA (System Transformation, Excellence and Performance in Virginia), the Commonwealth’s behavioral health transformation plan. Also support additional state funding to improve the responsiveness and increase the capacity of the mental health system for Virginians of all ages, including programs that work in concert with STEP-VA core services, such as the Children’s Regional Crisis Stabilization Program.

Building on mental health reforms made in recent years, the 2017 GA enacted STEP-VA, which mandates that CSBs provide new core services. As a result, all CSBs initiated same-day mental health screening services and outpatient primary care screening, monitoring, and follow-up by July 1, 2019. Seven other core services (including outpatient mental health and substance abuse services, detoxification, and psychiatric rehabilitation, among others) are mandated to begin on July 1, 2021. The GA must appropriate sufficient funds to enable all CSBs to implement these mandates. *(Updates and reaffirms previous position.)*

Emergency Responsiveness TO BE REVIEWED BY CSB

Support sufficient state funding for intensive community resources (such as the Program for Assertive Community Treatment) and intensive residential services, to alleviate the state hospital bed crisis and allow individuals to transition safely and expediently from psychiatric hospitals to community care.

In 2014, the GA passed legislation requiring state facilities to accept individuals subject to a temporary detention order if a bed in a private psychiatric facility cannot be located within the eight-hour timeframe of an emergency custody order. While this is designed to ensure that individuals in crisis receive emergency mental health treatment, it has also led to a shortage of state hospital beds. The Northern Virginia Mental Health Institute (NVMHI), one of the smaller state hospitals in spite of the large population it serves, has recently experienced periods of 100 percent capacity (other state hospitals face similar challenges). The state hospital bed crisis is

exacerbated by the lack of sufficient 24-hour community-based services for individuals requiring intensive supervision and medical services; thirteen individuals hospitalized in NVMHI in September 2019 could have been discharged if 24-hour placements were available, freeing up critically needed beds in the state hospital system.

The Department of Behavioral Health and Developmental Services (DBHDS) has developed a five-year plan that relies heavily on improving and increasing community-based mental health services to reduce the demand for emergency placements, shifting state funding from large mental health institutions to community-based facilities and requiring localities to share the cost of psychiatric hospitalizations. The cost of serving an individual in the community is a fraction of the cost of providing such services in a hospital setting, but ensuring that such community-based services exist requires additional resources, and success cannot be achieved by simply shifting costs to localities. Alarming, though the first years of this plan provided funding for 204 beds statewide, only 16 beds were funded in Northern Virginia, raising serious concerns that implementation of DBHDS' proposal will effectively penalize localities like Fairfax County, that already put substantial local funding into providing mental health services. Additionally, state funding is insufficient for regional mobile response services to prevent the unnecessary hospitalization of children and youth and to provide the intensive community resources that allow individuals hospitalized for mental health emergencies to transition back to community care, exacerbating the state hospital bed crisis. *(Updates and reaffirms previous position.)*

***Services for Transitional Youth* TO BE REVIEWED BY CSB AND DFS**

Support enhanced residential and mental/behavioral health services that are evidence-based for transitional youth who currently “age out” of such services.

In Virginia, significantly more public services are available to children in need of mental and behavioral health treatment than to adults in need of similar services. As a result, once they turn 18, youth may no longer receive all the assistance that was previously provided. It is critical that the Commonwealth focus additional resources on transitional age youth (ages 16 to 24) who have received intensive mental/behavioral health services and/or been in out-of-home placements, to ensure they receive the essential services needed for a successful transition to adulthood. Services from which transitional youth typically age out include children's mental health services; home-based services supports; case management; supervised, supported, or group home settings; educational support; specialized vocational support, preparation, and counseling; preparation for independent living; and, social skills training. *(Updates and reaffirms previous position.)*

FAIRFAX COUNTY 2020 Human Services Fact Sheet

**TO BE REVIEWED BY CSB,
DFS, NCS, HCD, OPEH,
HEALTH, AND OSM**

In 2018, there were **67,258** Fairfax County residents that earned less than 100% of the FPL – **77%** of localities in Virginia had fewer total residents than Fairfax County had residents living in poverty (103 of 133 localities).*

Eligibility for public assistance programs that provide support for low-income residents is tied to a percentage (typically 100%) of the Federal Poverty Level (FPL). In 2018, there were 67,258 Fairfax County residents (or 5.9% of the population) that earned less than 100% of the FPL (\$12,140 for an individual or \$25,100 for a family of four).*

However, the income needed to cover basic living expenses (food, housing, child and health care, transportation, etc.) in Fairfax County is far greater – MIT's living wage calculator shows that an adult needs over \$36,000 (almost 300% of the

In 2018, there were **272,278 residents (24%)**, including approximately 78,249 children, living in households with incomes less than 300% of the FPL – about the amount considered a living wage.*

FPL) and a family of four needs almost \$80,000 (over 300% of the FPL).

Employment

- The unemployment rate in September 2019 was 2%, representing 12,989 unemployed residents looking for work.

Housing

- In 2018 and 2019, Fairfax County opened two affordable housing waitlists with more than 25,000 applications.
- There is an existing gap of 31,000 housing units affordable to current Fairfax County renters earning up to 80 percent of the Area Median Income (AMI); in addition to filling that gap, it is anticipated that there will be a need for 15,000 new units affordable to households earning 60 percent of the AMI and below to meet the housing needs of households anticipated to move into the County over the next 15 years.
- In 2017, the average monthly rent for an apartment was \$1,789, for which a renter would need an income of \$71,576 to afford.

Health

In **2018**, there were **90,953** County residents (8%) without health insurance.*

- Medicaid caseloads increased nearly 124% from 37,130 in FY 2008 to 83,114 in FY 2019.
- In FY 2018, the Community Health Care Network (CHCN) provided 35,388 visits to 16,837 unduplicated patients.

*See the US Census Bureau One-Year 2018 American Community Survey for more information and the associated margins of error.

FAIRFAX COUNTY 2020 Human Services Fact Sheet

**TO BE REVIEWED BY CSB,
DFS, NCS, HCD, OPEH,
HEALTH, AND OSM**

Mental and Behavioral Health

- In FY 2019, over 21,000 residents received Fairfax-Falls Church CSB mental health, substance use disorder, and/or DD services, and nearly 6,400 residents received CSB emergency services.
- In FY 2019, CSB conducted 1,844 mental health evaluations related to emergency custody orders (ECOs) – a 360% increase from FY 2015, and an increase of 25% from FY 2017.
- More than 2,420 of the over 12,500 individuals with DD on the statewide Medicaid waiver waiting list (as of October 2019) are served by the Fairfax-Falls Church CSB.
- From FY 2016 to FY 2019, the average monthly number of children seeking and/or receiving early intervention services for developmental delays grew by more than 12%, from 1,554 to 1,748.
- There were 83 opioid deaths in Fairfax County in 2018, and 64 of those deaths involved fentanyl and fentanyl analogs (in Virginia, fentanyl and fentanyl-analog overdose deaths have increased by more than tenfold since 2009).
- Although there was a small decrease in overall opioid overdose deaths in Virginia from 2017 to 2018 (from 1,230 to 1,215), Virginia is on track to have a record of nearly 1,300 deaths from opioid overdoses in 2019.
- In Fairfax County, the annual number of emergency department visits for opioid overdoses is still significantly higher than it was in 2013 (60 in 2013 vs. 211 in 2018).
- The highest rate of emergency department visits for heroin/fentanyl and fentanyl-analog overdoses in Fairfax County was among individuals aged 25-34 (25 per 100,000 people) in 2018.
- The highest rate of prescription opioid overdoses in Fairfax County was among individuals aged 25-34 (25 per 100,000 people).
- The 2018-2019 Fairfax County Youth Survey of 8th, 10th and 12th grade students found that, within a month of the survey date and without a doctor's order, approximately 900 students reported taking painkillers, and over 1,100 reported taking other prescription drugs.

In FY 2019, **62.2%** of people receiving County services for mental illness, substance use disorder, or DD had **incomes below \$12,000**.

Gangs

- According to the Fairfax County Youth Survey, approximately 570 students in the 8th, 10th, and 12th grades report being a gang member at some point in their life.
- The average age of initial gang participation is 12.3 years old.

Ability to Speak English

- 13.6% of County residents over age 5 do not speak English proficiently.
- 5.7% of households are “linguistically isolated” (they include no one over 14 who speaks English proficiently).
- 39.2% of County residents over age 5 speak a language other than English at home.

FAIRFAX COUNTY
2020 Human Services Fact Sheet

**TO BE REVIEWED BY CSB,
DFS, NCS, HCD, OPEH,
HEALTH, AND OSM**

Child Care

- The cost of full-time child care for a preschooler at a child care center can range from \$14,000 to over \$19,500 per year (\$17,500 to nearly \$23,000 per year for an infant). In comparison, the average cost of tuition and fees for a public college in Virginia is \$13,400.

Child Welfare

- Healthy Families Fairfax, a key child abuse and neglect prevention program, served 707 families in FY 2019 (an additional 117 families were served by Neighborhood Networks and Families in Need of Services, two other prevention programs).
- In FY 2019, Child Protective Services (CPS) conducted 2,279 family assessments or investigations in response to valid referrals of child abuse and neglect, and 341 families were served in CPS ongoing services to keep children with their families.
- There were an average of 202 children in foster care each month during FY 2019, and 322 families participated in parenting education programs.

Nutrition

- The SNAP (Food Stamp) average monthly caseload increased more than 81%, from 11,610 in FY 2008 to 21,065 in FY 2019.

Domestic and Sexual Violence

- In FY 2019, Fairfax County's Domestic Violence Action Center (DVAC) served over 1,000 victims, but the impacts of domestic violence (DV) on children continue to be profound. At DVAC, there were over 1,300 children living in homes where DV was present (80% were 12 years old or younger).
- Each month in Fairfax County, DV hotlines receive over 100 calls on average, victims request 73 family abuse protective orders, and 25 families escape to an emergency DV shelter (FY 2019).
- In FY 2019, the Fairfax County Police Department responded to nearly 3,000 DV calls, and 115 arrests were made due to strangulation (which is a significant predictor of future lethal violence).
- 48 families needing emergency shelter due to domestic violence were placed in hotels in FY 2019 for reasons such as family size, geographical location, or bed shortage. 227 households were not housed because at the time of the call, they did not meet the criteria for imminent danger (no person in imminent danger is turned away).
- In Fairfax County, on the night of the 2019 Point in Time Count, there were 58 families (including 63 adults and 112 children) who were homeless due to DV (nearly 40% of those identified).
- In FY 2019, there were 100 households (including 205 children) served in the four homeless shelters for families that reported a history of DV.
- 43% of emergency DV shelter residents are children 12 years and younger (FY 2019).
- In FY 2019, Fairfax County police responded to nearly 400 Lethality Assessment Program (LAP) calls; 88% were identified as at high risk for being killed by their intimate partner.

CSB Board Review of CSB Board Policy

Issue:

Regular review and update to identified CSB Board Policies

Background:

As part of the regular CSB Board policy review process, policies are submitted to the CSB Board Executive Committee for review and recommendation. Following Committee review, recommendations are compiled and submitted to the full CSB Board as an Information Item for further review. At the next CSB Board meeting, the policies, with all recommendations visible, are submitted as an Action Item for final review and approval. The policies submitted for this review include those listed below:

- 1305 – Participation by the Public
- 3040 – Privacy, Security, and Confidentiality

Timing:

These policies were initially reviewed in February 2020 as part of the regular CSB Board policy review process. Due to the impact of COVID-19, CSB Board meetings were canceled, delaying review until June 2020. The policies submitted for review include the edits offered in the February 2020 review. Following this opportunity for review and comment by the CSB Board, the policies will be submitted for approval at the July 22, 2020 CSB Board meeting.

Board Member

Sheila Jonas, CSB Board Secretary

Related Documents:

- A. 1305 – Participation by the Public
- B. 3040 – Privacy, Security, and Confidentiality

Policy Number: 1305
Policy Title: Participation by the Public
Date Adopted: TBD

Purpose

To ensure involvement and participation of individuals receiving services, their families, and the public. To ensure that the discussion and analysis of the issues before the Board are conducted in an open and orderly manner.

Policy

The Fairfax-Falls Church Community Services Board (CSB) takes all necessary and appropriate actions to actively involve and support the maximum participation of individuals, their families, and the public in policy formulation and services planning, delivery, monitoring, and evaluation.

The public is encouraged to attend meetings of the [CSB](#) Board, to observe its deliberations and to inform the [CSB](#) Board of relevant issues. The public may address the [CSB](#) Board on matters which are relevant to the [CSB](#) Board, on agenda items and during public hearings. Persons who wish to address the [CSB](#) Board are requested to state their names, their affiliation and the subject about which they wish to speak. If the speakers wish to remain anonymous, they may give only a first name.

1. Matters of the Public. CSB Board meetings shall always include a "Matters of the Public" agenda item providing for public participation. The topic addressed does not need to be one which is on the meeting agenda. Persons who wish to address the [CSB](#) Board must first be recognized by the Chair, who may limit the amount of time allotted for the speaker.
2. Agenda Items. All persons seeking the opportunity to speak at a Board meeting shall address the Chair and may direct questions or comments to [CSB](#) Board members or other officers of the [CSB](#) Board only upon the approval of the Chair. Members of the [CSB](#) Board and the Executive Director have the privilege of asking questions of any person who addresses the Board.
3. Public Hearings. Public hearings are topic-specific, announced in advance and may have time limitations for speakers. Every person who wishes to speak at public hearings must first be recognized by the Chair. The Chair shall determine whether it is in the public interest to allow the request. Should requests to speak be granted, the presentation shall be limited in time as determined by the [CSB](#) Board in advance. If there are numerous requests to address the [CSB](#) Board on the same subject, the Chair may select representatives to speak on each side of the issue. The [CSB](#) Board has the right to overrule the Chair by a majority vote of those present.
4. Complaints regarding identified [CSB](#) Board members or staff will be heard only in

Executive Session.

5. All employees have the right to participate in CSB Board meetings in the same manner as all other members of the public.

Approved _____ Date _____
CSB Board Secretary

References:

- [No longer applicable](#)
- [Code of Virginia 37.2-504.5](#)
- Virginia Department of Behavioral Health and Developmental **Services**

Deleted: <#>Commission on Accreditation of Rehabilitation Facilities (CARF) Employment and Community Services Manual¶

Commented [BL2]: Is this needed?

Policy Adopted: February 1976
Policy Readopted: November 1980
Policy Revised: August 1994
Policy Readopted: April 23, 1997
Policy Readopted: March 29, 2000
Policy Readopted: April 23, 2003
Policy Readopted: April 26, 2006
Revision Adopted: January 28, 2015

Policy Number: 3040
 Policy Title: Privacy, Security, and Confidentiality
 Date Adopted: TBD

Purpose

The purpose of this policy is to provide guidance for the establishment and distribution of the Fairfax-Falls Church Community Services Board (CSB) Notice of Privacy Practices (Notice) as required by law and regulations, cited below. The Notice is intended to provide consumers with a clear understanding of how the information consumers provide to the CSB and its directly operated programs and contractors will be protected, used and disclosed.

Commented [BE1]: Recommendation to consider including reference of 'adherence to HIPAA compliance'.

Policy

It is the policy of the CSB Board that:

1. CSB staff shall provide every CSB consumer with a copy of the CSB's Notice of Privacy Practices in accordance with law and regulations federal regulations.
2. The CSB shall publicly post the its Notice of Privacy Practices at each CSB service site and on the CSB website. The CSB will post updates to the Notice of Privacy Practice at its service sites, on the website and will make copies available to CSB consumers upon request at service sites.
3. The CSB shall maintain consumer records containing individually identifiable health information in accordance with law and regulations.
4. Unless the law indicates otherwise, CSB consumers shall have the right to access their own records and to receive a copy of their CSB record upon request. CSB Consumers also have the right to request an amendment to their record.
5. The CSB and the County's Department of Procurement and Materials Management will ensure that the County enter into binding agreements with vendors/contractors providing services to CSB consumers on behalf of the CSB that comply with all applicable laws and regulations regarding privacy, security, and confidentiality of CSB consumer records.

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- Deleted: Consumers receiving services from the CSB shall have the right to receive confidential communications concerning their treatment and handling of their protected health information.
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- Deleted: to health information in their record.
- Deleted: <#>Individuals acting on behalf of the CSB
- Deleted: <#> shall treat all individually identifiable health information of persons receiving services as private, secure, and confidential and shall not further disclose this information except as permitted by law. ¶
- Deleted: <#>Individuals acting on behalf of the CSB shall
- Deleted: <#>Federal and State laws, State Human Rights Regulations, State licensure regulations and standards established by accreditation organizations
- Deleted: <#> including protected health information
- Deleted: <#>¶

Approved _____
 Secretary to the CSB Board _____
 Date _____

Deleted: <#>Contract agencies shall be in compliance with Federal and State laws, regulations and applicable licensing, human rights regulation and standards established by accreditation organizations related to privacy, security and confidentiality of consumer records
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References:

- Federal Health Insurance Portability Accountability Act (HIPAA), 45 CFR Parts 160 and 164
- [Confidentiality of Records, 42 U.S.C. § 290dd-2, Confidentiality of Substance Use Disorder Patient Records, 42 C.F.R. Part 2, §§ 2.1 through 2.67, revised, Virginia Government Data Collection and Dissemination Practices Act, Va. Code §§ 2.2-3800 through 3809, Virginia Code § 32.1-127.1:03; Health Records Privacy](#)
- Virginia Code, Section 54.1-2400.1, [Mental health services providers; duty to protect third parties; immunity](#),
- Deemed Consent for release of testing & results re: HIV or Hep B or C viruses, Va. Code § 32.1-45.1
- Confidentiality of test results HIV, Va. Code § 32.1-36.1
- Confidentiality, Virginia Human Rights Regulation, 12VAC35-115-80
- [Fairfax County PROCEDURAL MEMORANDUM, No. 02-09, HIPAA Compliance](#)
- Various CSB Regulations and/or Procedures

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 Virginia Privacy Protection Act of 1976
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 Deleted: <#>Virginia Department of Behavioral Health and Developmental Services, Virginia Code 12 VAC 35-105-10
 Deleted: <#>¶
 <#>Commonwealth of Virginia, Department of Behavioral Health and Developmental Services (DBHDS), 12VAC 35-115-130, Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by DBHDS ¶
 Deleted: State Human Rights Regulations 12 VAC 35-115
 Deleted: Commission on Accreditation of Rehabilitation Facilities (CARF) Employment and Community Services Standards
 Deleted: Manual Not applicable
 Deleted: <#>Review and input by Fairfax County HIPAA Compliance Manager, August 12, 2013
 Deleted: <#>¶

Policy Adopted: March 19, 2003
 Revision Adopted: January 28, 2015

FY 2019 – FY 2020 COMMUNITY SERVICES PERFORMANCE CONTRACT AMENDMENT AND EXTENSION AGREEMENT

Recommended Motion

I move that the CSB Board approve a 30-day public comment period for the FY 2019-FY 2020 Community Services Performance Contract Amendment and Extension Agreement once the finalized version has been published.

Issue:

The FY 2019–FY 2020 Community Services Performance Contract Amendment and Extension Agreement (“State Performance Contract”) has not yet been released. This release is later than anticipated due to the delay in adopting the 2021-2022 biennium budget related to expected revenue shortfalls caused by the response to the COVID-19 pandemic and ongoing negotiations on contract requirements.

In addition, the release of the FY 2021 - FY 2022 Community Services Performance Contract had previously been postponed by DBHDS due to the COVID-19 pandemic and the Amendment and Extension agreement serves to extend the FY 2019 - FY2020 State Performance Contract through December 31, 2020.

Background

The Community Services Performance Contract delineates the responsibilities between DBHDS and the community services boards and behavioral health authority for the purpose of providing local public mental health, developmental and substance abuse services. It specifies the conditions to be met for a CSB to receive State-controlled funds, identifies the groups of consumers to be served with state-controlled funds and includes requirements to ensure accountability to the state. It includes all services provided or contracted by the CSB. The submitted contract will include FY 2021 projections for budget, staff resources and service provision.

Community Services Boards are required to make the biennial contract available for public review and comment for a period of 30 days and must obtain approval by the county’s governing body prior to contract submission. Draft Revisions have been attached to provide information on the proposed changes.

Administrative Requirements

Links to the FY 2019-FY2020 Community Services Performance Contract Amendment and Extension Agreement and associated exhibits will be sent once the final versions are posted. It is anticipated that these will be posted next week following the final review meeting on Friday, June 26.

Substantive expected changes include a new Exhibit M which covers the Department of Justice Settlement Agreement requirements for Developmental Services that are moved from the body of the contract into Exhibit M and include the requirements from the FY19-20 Contract and the new requirements established in January 2020 that are being finalized. Revisions are also made to Exhibit F with additional details outlining Federal Grant Compliance Requirements.

Staff

Daryl Washington, Executive Director, Community Services Board

Enclosed Documents:

1. PC Amendment and Extension Agreement, 5.19.2020
2. Exhibit A – FY21 Performance Contract 5.19.20
3. Exhibit E – FY 21-22 Performance Contract Process 5.19.2020
4. Exhibit F – Federal Grant Requirements FY2021-FY2022 5.19.2020
5. Exhibit M – FY21-22 CSB-Department of Justice Settlement Agreement Requirementsv2 5.19.2020

AMENDMENT NO. 1
FY2019 and FY2020 COMMUNITY SERVICES
PERFORMANCE CONTRACT
[ENTER THE COMMUNITY SERVICE BOARD NAME]

This agreement amends the FY2019 and FY2020 Community Services Performance Contract (the "Contract") bearing the effective date of July 1, 2019 between the Department of Behavioral Health and Developmental Services (the "Department" or "Agency") and the Community Services Board (the "CSB"), (referred to collectively as the "Parties").

As provided for under the terms of this Contract, the Department and the CSB agree to amend the following provisions:

1. **Section 3: Contract Term** shall be amended to extend the term effective July 1, 2020 through December 31, 2020 (the "Amendment Term").
2. **Section 4.q.: Department of Justice Settlement Agreement Requirements** shall be deleted in its entirety and replaced with Exhibit M as attached hereto.
3. **Exhibit A: Resources and Services** shall be deleted in its entirety and replaced as attached hereto.
4. **Exhibit E: Performance Contract Process** shall be deleted in its entirety and replaced as attached hereto.
5. **Exhibit F: Federal Compliances** shall be deleted in its entirety and replaced with Exhibit F: Federal Grant Compliance Requirements as attached hereto.

All other terms and conditions that are not hereby amended are to remain in full force and effect.

Counterparts and Electronic Signatures: Except as may be prohibited by applicable law or regulation, this Agreement and any amendment may be signed in counterparts, by facsimile, PDF, or other electronic means, each of which will be deemed an original and all of which when taken together will constitute one agreement. Facsimile and electronic signatures will be binding for all purposes.

Signatures: In witness thereof, the Department and the CSB have caused this Agreement to be executed by the following duly authorized Parties.

Virginia Department of Behavioral Health and Developmental Services

By: _____

Name: Alison G. Land, FACHE

Title: Commissioner

Date: _____

[Community Service Board Name]

By: _____

Name: [CHAIRPERSON NAME]

Title: Chairperson

Date: _____

By: _____

Name: [EXECUTIVE DIRECTOR NAME]

Title: Executive Director

Date: _____

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services

CSB: _____

Consolidated Budget (Pages AF-3 Through AF-8)				
Funding Sources	Mental Health (MH) Services	Developmental (DV) Services	Substance Use Disorder (SUD) Services	TOTAL
State Funds				
Local Matching Funds				
Total Fees				
Transfer Fees (In)/Out				
Federal Funds				
Other Funds				
State Retained Earnings				
Federal Retained Earnings				
Other Retained Earnings				
Subtotal: Ongoing Funds				
State Funds One-Time				
Federal Funds One-Time				
Subtotal: One-Time Funds				
Total: All Funds				

Cost for MH, DV, SUD Services				
	Cost for Emergency Services (AP-4)			
	Cost for Ancillary Services (AP-4)			
	Total Cost for Services			

Local Match Computation	
Total State Funds	
Total Local Matching Funds	
Total State and Local Funds	
Total Local Match Percentage (Local ÷ Total State + Local Funds)	

CSB Administrative Percentage	
Administrative Expenses	
Total Cost for Services	
Administrative Percentage (Admin ÷ Total Expenses)	

Note: Exhibit A is submitted to the Department by the CSB electronically using the CARS software application.

CSB: _____

Financial Comments

Comment 1	
Comment 2	
Comment 3	
Comment 4	
Comment 5	
Comment 6	
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Comment 25	

Use of Retained Earnings

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Mental Health (MH) Services

CSB: _____

Funding Sources	Funds
FEES	
MH Medicaid Fees	
MH Fees: Other	
Total MH Fees	
MH Fees Transfer In/(Out)	
MH NET FEES	
<u>FEDERAL FUNDS</u>	
MH FBG SED Child & Adolescent (93.958)*	
MH FBG Young Adult SMI (93.958)*	
MH FBG SMI (93.958) ¹	
MH FBG SMI PACT (93.958) ¹	
MH FBG SMI SWVBH Board (93.958) ¹	_____
Total MH FBG SMI Funds*	
MH FBG Geriatrics (93.958)*	
MH FBG Peer Services (93.958)*	
Total MH FBG Adult Funds*	_____
MH Federal PATH (93.150)*	
MH Federal COVID Emergency Grant (93.665)*MH	
Other Federal - DBHDS*	
MH Other Federal – COVID Support*	
MH Other Federal - CSB*	
TOTAL MH FEDERAL FUNDS	_____
<u>STATE FUNDS</u>	
<u>Regional Funds</u>	
MH Acute Care (Fiscal Agent)* ²	
MH Acute Care Transfer In/(Out)	
Total MH Net Acute Care - Restricted	_____
MH Regional DAP (Fiscal Agent)* ²	
MH Regional DAP Transfer In/ (Out)	
Total MH Net Regional DAP - Restricted MH	_____
Regional Residential DAP - Restricted	
MH Crisis Stabilization (Fiscal Agent)* ²	
MH Crisis Stabilization Transfer In/(Out)	
Total MH Net Crisis Stabilization – Restricted	_____
MH Transfers from DBHDS Facilities (Fiscal Agent)*	
MH Transfers from DBHDS Facilities - Transfer In/(Out)	
Total Net MH Transfers from DBHDS Facilities	_____
MH Expanded Community Capacity (Fiscal Agent)*	
MH Expanded Community Capacity Transfer In/(Out)	
Total Net MH Expanded Community Capacity	
MH First Aid and Suicide Prevention (Fiscal Agent)*	
MH First Aid and Suicide Prevention Transfer In/(Out)	
Total Net MH First Aid and Suicide Prevention	

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Mental Health (MH) Services

CSB: _____

Funding Sources	Funds
MH STEP-VA Outpatient (Fiscal Agent)*	
MH STEP-VA Outpatient Transfer In/(Out)	
Total Net MH STEP-VA Outpatient	
MH STEP-VA Crisis (Fiscal Agent)*	
MH STEP-VA Crisis Transfer In/(Out)	
Total Net MH STEP-VA Crisis	
MH Forensic Discharge Planning (Fiscal Agent)*	
MH Forensic Discharge Planning Transfer In/(Out)	
Total Net MH Forensic Discharge Planning	
MH Permanent Supportive Housing (Fiscal Agent)*	
MH Permanent Supportive Housing Transfer In/(Out)	
Total Net MH Permanent Supportive Housing	
MH Recovery (Fiscal Agent)+	
MH Other Merged Regional Funds (Fiscal Agent)+	
MH State Regional Deaf Services (Fiscal Agent)+	
MH Total Regional Transfer In/(Out)	_____
MH Net Unrestricted Regional Funds	_____
Total MH Net Regional State Funds	
Children's State Funds	
MH Child & Adolescent Services Initiative*	
MH Children's Outpatient Services*	
MH Juvenile Detention*	
Total MH Restricted Children's Funds	_____
MH State Children's Services‡	
MH Demo Project - System of Care (Child) ‡	
Total MH Unrestricted Children's Funds	_____
MH Crisis Response & Child Psychiatry (Fiscal Agent)*	
MH Crisis Response & Child Psychiatry Transfer In/(Out)	_____
Total MH Net Crisis Response & Child Psychiatry	_____
Total MH Children's State Funds (Restricted)	_____
<u>Other State Funds</u>	
MH Law Reform*	
MH Pharmacy - Medication Supports* MH	
Jail Diversion Services*	
MH Rural Jail Diversion*	
MH Docket Pilot JMHCP Match*	
MH Adult Outpatient Competency Restoration Services* MH	
CIT Assessment Sites*	
MH Expand Telepsychiatry Capacity*	
MH PACT*	
MH PACT Forensic Enhancement*	
MH Gero-Psychiatric Services*	
MH Permanent Supportive Housing*	
MH Step-VA – SDA, Primary Care Screening, Ancillary Services, and Clinicians Crisis*	
MH Young Adult SMI*	

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Mental Health (MH) Services

CSB: _____

Funding Sources	Funds
Total MH Restricted Other State Funds	
MH State Funds‡	
MH State NGRI Funds‡	
MH Geriatric Services‡ _____	
Total MH Unrestricted Other State Funds	_____
Total MH Other State Funds _____	
TOTAL MH STATE FUNDS	_____
 OTHER FUNDS	
MH Other Funds*	
MH Federal Retained Earnings*	
MH State Retained Earnings*	
MH State Retained Earnings - Regional Programs*	
MH Other Retained Earnings*	
TOTAL MH OTHER FUNDS	
 LOCAL MATCHING FUNDS	
MH Local Government Appropriations‡	
MH Philanthropic Cash Contributions‡	
MH In-Kind Contributions‡	
MH Local Interest Revenue‡	
TOTAL MH LOCAL MATCHING FUNDS	_____
TOTAL MH FUNDS	
 ONE-TIME FUNDS	
MH FBG SMI (93.958)*	
MH FBG SED Child & Adolescent (93.958)*	
MH FBG Peer Services (93.958) *	
MH State Funds	
MH One-Time Restricted State Funds*	_____
TOTAL MH ONE-TIME FUNDS	
 TOTAL MH ALL FUNDS	_____

¹ These funds are earmarked but not restricted; they are part of MH FBG SMI.

² MH acute care (LIPOS), regional DAP, and crisis stabilization funds are restricted, but each type of funds can be used for the other purposes in certain situations approved by the Department.

* These funds are restricted and expenditures of them are tracked and reported separately.

‡ These funds are earmarked but not restricted; expenditures are reported for the total amount.

+ Funds are earmarked in a pool of Regional Funds; expenditures are reported for the total amount.

FEES

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Developmental (DV) Services

CSB: _____

Funding Sources	Funds
DV Medicaid DD Waiver Fees	
DV Other Medicaid Fees	
DV Medicaid ICF/IDD Fees	
DV Fees: Other	_____
Total DV Fees	_____
DV Fees Transfer In/(Out)	_____
DV NET FEES	

FEDERAL FUNDS

DV Other Federal - DBHDS*	
DV Other Federal - CSB*	
DV Other Federal – COVID Support*	_____
TOTAL DV FEDERAL FUNDS	

STATE FUNDS

DV State Funds‡	
DV OBRA Funds‡	_____
Total DV Unrestricted State Funds	
DV Trust Fund*	
DV Rental Subsidies*	
DV Guardianship Funding*	
DV Crisis Stabilization (Fiscal Agent)*	
DV Crisis Stabilization Transfer In/(Out)	_____
DV Net Crisis Stabilization*	
DV Crisis Stabilization - Children (Fiscal Agent)*	
DV Crisis Stabilization - Children Transfer In/(Out)	_____
DV Net Crisis Stabilization - Children	_____
DV Transfers from DBHDS Facilities (Fiscal Agent)*	
DV Transfers from DBHDS Facilities - Transfer In/(Out)	_____
Total Net DV Transfers from DBHDS Facilities	_____

Total DV Restricted State Funds _____

TOTAL DV STATE FUNDS

OTHER FUNDS

DV Workshop Sales*	
DV Other Funds*	
DV State Retained Earnings*	
DV State Retained Earnings - Regional Programs*	
DV Other Retained Earnings*	_____

TOTAL DV OTHER FUNDS

LOCAL MATCHING FUNDS

DV Local Government Appropriations‡	
DV Philanthropic Cash Contributions‡	
DV In-Kind Contributions‡	
DV Local Interest Revenue‡	_____
TOTAL DV LOCAL MATCHING FUNDS	_____
TOTAL DV FUNDS	_____

FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS

FY 2021 Exhibit A: Resources and Services for Developmental (DV) Services

CSB: _____

Funding Sources	Funds
<u>ONE-TIME FUNDS</u>	
DV One-Time Restricted State Funds*	_____
TOTAL DV ONE-TIME FUNDS	_____
TOTAL DV All FUNDS	_____

* These funds are restricted and expenditures of them are tracked and reported separately.

‡ These funds are earmarked but not restricted; expenditures are reported for the total amount.

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Developmental (DV) Services

CSB: _____

Funding Sources	Funds
FEES	
SUD Medicaid Fees	
SUD Fees: Other	
Total SUD Fees	
SUD Fees Transfer In/(Out)	
SUD NET FEES	
FEDERAL FUNDS	
SUD FBG Alcohol/Drug Treatment (93.959)‡ ¹	
SUD FBG SARPOS (93.959)‡	
SUD FBG Jail Services (93.959)‡	
SUD FBG Co-Occurring (93.959)‡	
SUD FBG New Directions (93.959)‡	
SUD FBG Recovery (93.959)‡	
SUD FBG Medically Assisted Treatment (93.959)	_____
Total SUD FBG Alcohol/Drug Treatment Funds	
SUD FBG Women (Includes LINK at 6 CSBs) (93.959)*	_____
Total SUD FBG Women Funds	
SUD FBG Prevention (93.959) ²	
SUD FBG Prevention Family Wellness (93.959) ²	_____
Total SUD FBG Prevention Funds	
SUD Federal VA Project LINK/PPW (93.243)*	
SUD Federal Strategic Prevention (93.243)*	
SUD Federal COVID Emergency Grant (93.665)*	
SUD Federal YSAT – Implementation (93.243)*	
SUD Federal OPT-R Prevention (93.788)*	
SUD Federal OPT-R Treatment (93.788)*	
SUD Federal OPT-R Recovery (93.788)*	
Total SUD Federal OPT-(93.788)*	_____
SUD Federal Opioid Response Recovery (93.788)*	
SUD Federal Opioid Response Prevention (93.788)*	
SUD Federal Opioid Response Treatment (93.788)*	
Total SUD Federal Opioid Response (93.788)*	
SUD Other Federal - DBHDS*	
SUD Other Federal - CSB*	
SUD Other Federal – COVID Support*	_____
TOTAL SUD FEDERAL FUNDS	
STATE FUNDS	
Regional Funds	
SUD Facility Reinvestment (Fiscal Agent)*	
SUD Facility Reinvestment Transfer In/(Out)	_____
SUD Net Facility Reinvestment Funds	
SUD Transfers from DBHDS Facilities (Fiscal Agent)*	

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Developmental (DV) Services

CSB: _____

Funding Sources

Funds

SUD Transfers from DBHDS Facilities – Transfer In/(Out) _____
 Total Net DV Transfers from DBHDS Facilities
 SUD Community Detoxification (Fiscal Agent)*
 SUD Community Detoxification Transfer In/(Out)
 Total Net SUD Community Detoxification

 SUD STEP-VA (Fiscal Agent)*

 SUD STEP-VA Transfer In/(Out)
 Total Net SUD STEP-VA

 Total SUD Net Regional State Funds

Other State Funds

SUD Women (Includes LINK - 4 CSBs)^{3*}
 SUD Recovery Employment*
 SUD MAT - Medically Assisted Treatment*
 SUD Peer Support Recovery*
 SUD Permanent Supportive Housing Women*
 SUD SARPOS*
 SUD Recovery* _____

Total SUD Restricted Other State Funds

SUD State Funds^{4‡}
 SUD Region V Residential‡
 SUD Jail Services/Juvenile Detention‡
 SUD HIV/AIDS‡ _____

Total SUD Unrestricted Other State Funds

Total SUD Other State Funds
TOTAL SUD STATE FUNDS

OTHER FUNDS

SUD Other Funds*
 SUD Federal Retained Earnings*
 SUD State Retained Earnings*
 SUD State Retained Earnings - Regional Programs*
 SUD Other Retained Earnings* _____

TOTAL SUD OTHER FUNDS

LOCAL MATCHING FUNDS

SUD Local Government Appropriations‡
 SUD Philanthropic Cash Contributions‡
 SUD In-Kind Contributions‡
 SUD Local Interest Revenue‡ _____

TOTAL SUD LOCAL MATCHING FUNDS

TOTAL SUD FUNDS _____

**FY 2021 AND FY 2022 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

FY 2021 Exhibit A: Resources and Services for Developmental (DV) Services

CSB: _____

Funding Sources	Funds
<u>ONE-TIME FUNDS</u>	
SUD FBG Alcohol/Drug Treatment (93.959)*	
SUD FBG Women (includes LINK - 6 CSBs) (93.959)*	
SUD FBG Prevention (93.959)*	
SUD FBG Recovery (93.959)*	
SUD State Funds	_____
TOTAL SUD ONE-TIME FUNDS	_____
TOTAL SUD ALL FUNDS	_____

¹ Includes former SUD FBG Crisis Intervention. SUD FBG Alcohol/Drug Treatment funds are restricted, all of the following funds are also SUD FBG Alcohol/Drug Treatment funds but are only earmarked; the total amount of SUD FBG Alcohol/Drug Treatment expenditures shall be tracked and reported.

² While SUD FBG Prevention funds are restricted, these funds are also SUD FBG Prevention funds but are only earmarked; and the total amount of SUD FBG Prevention expenditures shall be tracked and reported.

³ Includes former SUD Postpartum Women funds.

⁴ Includes former SUD Facility Diversion funds.

* These funds are restricted and expenditures of them are tracked and reported separately.

‡ These funds are earmarked but not restricted; expenditures are reported for the total amount.

Difference results from Explanation of Other in Table Above

Other:



CSB 100 Mental Health Services

Form 11: Mental Health (MH) Services Program Area (100)			
Services	Projected Service Capacity	Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
250 Acute Psychiatric Inpatient Services	Beds		
310 Outpatient Services	FTEs		
312 Medical Services	FTEs		
350 Assertive Community Treatment	FTEs		
320 Case Management Services	FTEs		
410 Day Treatment or Partial Hospitalization	Slots		
420 Ambulatory Crisis Stabilization Services	Slots		
425 Mental Health Rehabilitation	Slots		
430 Sheltered Employment	Slots		
465 Group Supported Employment	Slots		
460 Individual Supported Employment	FTEs		
501 MH Highly Intensive Residential Services (MH Residential Treatment Centers)	Beds		
510 Residential Crisis Stabilization Services	Beds		
521 Intensive Residential Services	Beds		
551 Supervised Residential Services	Beds		
581 Supportive Residential Services	FTEs		
610 Prevention Services	FTEs		
Totals			

Form 11 A: Pharmacy Medication Supports	Number of Consumers
803 Total Pharmacy Medication Supports Consumers	

CSB 200 Developmental Services

Form 21: Developmental (DV) Services Program Area (200)			
Services	Projected Service Capacity	Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
310 Outpatient Services	FTEs		
312 Medical Services	FTEs		
320 Case Management Services	FTEs		
420 Ambulatory Crisis Stabilization Services	Slots		
425 Developmental Habilitation	Slots		
430 Sheltered Employment	Slots		
465 Group Supported Employment	Slots		
460 Individual Supported Employment	FTEs		
501 Highly Intensive Residential Services (Community-Based ICF/IDD Services)	Beds		
510 Residential Crisis Stabilization Services	Beds		
521 Intensive Residential Services	Beds		
551 Supervised Residential Services	Beds		
581 Supportive Residential Services	FTEs		
610 Prevention Services	FTEs		
Totals			

CSB 300 Substance Use Disorder Services

Form 31: Substance Use Disorder (SUD) Services Program Area (300)			
Services	Projected Service Capacity	Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
250 Acute Substance Use Disorder Inpatient Services	Beds		
260 Community-Based Substance Use Disorder Medical Detoxification Inpatient Services	Beds		
310 Outpatient Services	FTEs		
312 Medical Services	FTEs		
313 Intensive Outpatient Services	FTEs		
335 Medication Assisted Treatment	FTEs		
320 Case Management Services	FTEs		
410 Day Treatment or Partial Hospitalization	Slots		
420 Ambulatory Crisis Stabilization Services	Slots		
425 Substance Use Disorder Rehabilitation	Slots		
430 Sheltered Employment	Slots		
465 Group Supported Employment	Slots		
460 Individual Supported Employment	FTEs		
501 Highly Intensive Residential Services (Medically Managed Withdrawal Services)	Beds		
510 Residential Crisis Stabilization Services	Beds		
521 Intensive Residential Services	Beds		
551 Supervised Residential Services	Beds		
581 Supportive Residential Services	FTEs		
610 Prevention Services	FTEs		
Totals			

**FY 2019 AND FY 2020 COMMUNITY SERVICES PERFORMANCE CONTRACT
RENEWAL AND REVISIONS**

CSB 400 Emergency and Ancillary Services

Form 01: Emergency and Ancillary Services (400)			
Services	Projected Service Capacity	Projected Numbers of Individuals Receiving Services	Projected Total Service Costs
100 Emergency Services	FTEs		
Ancillary Services			
318 Motivational Treatment Services	FTEs		
390 Consumer Monitoring Services	FTEs		
720 Assessment and Evaluation Services	FTEs		
620 Early Intervention Services	FTEs		
730 Consumer-Run Services			
Ancillary Services Totals			

Exhibit E: FY21 and FY22 Performance Contract Process

DUE DATE	DESCRIPTION
5-22-20	<ol style="list-style-type: none"> 1. The Department distributes the FY 2021 Letters of Notification to CSBs by this date electronically with enclosures that show tentative allocations of state and federal block grant funds. <i>This contingent on the implementation of the fiscal year budget as passed by the General Assembly and signed into law by the Governor. The Code of Virginia allows the Governor to make certain adjustments to the Budget. Changes in Federal legislation, inclement weather and uncertain revenue collections, are just a few examples of events that may require adjustments to the budget in order to maintain the balanced budget as required by Virginia's constitution.</i> 2. Contracts shall conform to Letter of Notification allocations of state and federal funds or amounts subsequently revised by or negotiated with the OMS and confirmed in writing and shall contain actual appropriated amounts of local matching funds. 3. The Department distributes the amendment and extension of the FY 2019 and FY 2020 Community Services Performance Contract. 4. The Department's Office of Information Services and Technology (OIS&T) distributes the FY 2021 Performance Contract package software in the Community Automated Reporting System (CARS) to CSBs. 5. CSB Financial Analysts in the Department's Office of Fiscal and Grants Management (OFGM) During June and July, prepare electronic data interchange transfers for the first two semi- monthly payments (July) of state and federal funds for all CSBs.
06-24-20	<p>FY 2021 Exhibit A submitted electronically in CARS, are due in the OIS&T by this date. Table 2 Board Management and Salary Cost and Integrated Behavioral and Primary Health Care Questions of Exhibit A shall be submitted with in CARS.</p>
07-01-20	<ol style="list-style-type: none"> 1. All required signature pages for the amendment to extend the term of the FY19-20 performance contract shall be submitted electronically. This shall include the following pages, where electronic signatures are required, are due to the Office of Management Services (OMS). 2. If the CSB has not included the minimum 10 percent local matching funds in the contract, it shall submit a written request for a waiver of the matching funds requirement, pursuant to § 37.2-509 of the Code and State Board Policy 4010, to the OMS with its contract. However, if a local match waiver has been granted for the FY19-20 Contract, this waiver shall be extended. 3. If the amount of CSBs local match in their end of year report results in reducing the local match below the required 10%, then this requirement also applies to end of the fiscal year performance contract reports. The waiver shall conform to the Minimum Ten Percent Matching Funds Waiver Request Guidelines. 4. The CSB Financial Analysts prepares the transfers for payments 3 and 4 during July and August (August payments) of state and federal funds. CSB Financial Analysts prepare the transfers for payments 5 and 6 during August and September (September

Exhibit E: FY21 and FY22 Performance Contract Process

DUE DATE	DESCRIPTION
	<p>payments) of state and federal funds.</p> <p>5. Payments may not be released without complete contracts. Once the completed contract is received transfers for these two semi-monthly payments will be processed and funds will be disbursed with the next scheduled payment.</p>
07-13-20	The OIS&T distributes FY 2020 end of the fiscal year performance contract report.
07-31-20	CSBs submit their June Community Consumer Submission 3 (CCS 3) extract files for June to the OIS&T in time to be received by this date.
08-21-20	CSBs submit their complete CCS 3 reports for total (annual) FY 2020 CCS 3 service unit data to the OIS&T in time to be received by this date. The Department will not accept any corrections to the FY2020 end of year CCS report after this date.
08-31-20	<ol style="list-style-type: none"> 1. CSBs send complete FY 2020 end of the fiscal year electronic CARS performance contract reports to the OIS&T in time to be received by this date. 2. The OMS reviews services sections of the reports for correctness, completeness, consistency, and acceptability; resolves discrepancies with CSBs; and communicates necessary changes to CSBs. 3. OFGM CSB Financial Analysts review financial portions of reports for arithmetic accuracy, completeness, consistency, and conformity with state funding actions; resolve discrepancies with CSBs; and communicate necessary changes to CSBs. 4. Once they complete their reviews of a CSB's reports, the OMS and OFGM CSB Financial Analysts notify the CSB to submit new reports reflecting only those approved changes to OIS&T. 5. CSBs submit new reports to correct errors or inaccuracies no later than 09-18-2020. The Department will not accept CARS report corrections after this date. 6. Submitting a report without correcting errors identified by the CARS error checking program may result in the imposition by the Department of a one-time, one percent reduction not to exceed \$15,000 of state funds apportioned for CSB administrative expenses. 7. CSBs shall submit their July 2021 CCS 3 monthly extract files for July to the OIT&S in time to be received by this date.

Exhibit E: FY21 and FY22 Performance Contract Process

DUE DATE	DESCRIPTION
09-30-20	<ol style="list-style-type: none"> 1. Department staff complete reviews by this date of contracts received by the due date that are complete and acceptable. 2. The OFGM analyzes the revenue information in the contract for conformity to Letter of Notification allocations and advises the CSB to revise and resubmit financial forms in Exhibit A of its contract if necessary. 3. The Offices of Community Behavioral Health, Child and Family, and Developmental Services review and approve new service proposals and consider program issues related to existing services based on Exhibit A. 4. The OMS assesses contract completeness, examines maintenance of local matching funds, integrates new service information, makes corrections and changes on the service forms in Exhibit A, negotiates changes in Exhibit A, and finalizes the contract for signature by the Commissioner. The OMS notifies the CSB when its contract is not complete or has not been approved and advises the CSB to revise and resubmit its contract. 5. The OIS&T receives CARS and CCS 3 submissions from CSBs, maintains the community services database, and processes signed contracts into that database as they are received from the OMS. 6. CSBs submit their CCS 3 monthly consumer, type of care, service, diagnosis, and outcomes extract files for August to the OIT&S in time to be received by this date.
10-02-20	<ol style="list-style-type: none"> 1. After the Commissioner signs the contracts, a fully executed copy of the Contract will be send to the CSBs. 2. CSB Financial Analysts prepare transfers for payments 7 and 8 during September and October (October payments). 3. Payment 7 or 8 may not be released without receipt of a CSB’s final FY 2020 CCS 3 consumer, type of care, service, diagnosis, and outcomes extract files and FY 2020 end of the fiscal year by the due date. 4. CSB Financial Analysts prepare transfers for payments 9 and 10 during October and November (November payments).
10-16-20	<p>CSBs submit Federal Balance Reports to the OFGM in time to be received by this date.</p>
10-31-20	<ol style="list-style-type: none"> 1. CSBs submit CCS 3 monthly consumer, type of care, service, diagnosis, and outcomes extract files for September to the OIT&S in time to be received by this date. 2. CSB Financial Analysts prepare transfers for payments 11 and 12 During November and December (December payments), Payments may not be released without receipt of September CCS 3 submissions and final Federal Balance Reports.

Exhibit E: FY21 and FY22 Performance Contract Process

DUE DATE	DESCRIPTION
11-30-20	CSBs submit their CCS 3 monthly consumer, type of care, service, diagnosis, and outcomes extract files for October to the OIT&S in time to be received by this date.
12-04-20	<ol style="list-style-type: none"> 1. CSBs that are not local government departments or included in local government audits send one copy of the Certified Public Accountant (CPA) audit reports for the previous fiscal year on all CSB operated programs to the Department's Office of Budget and Financial Reporting (OBFR) by this date. 2. CSBs submit a copy of CPA audit reports for all contract programs for their last full fiscal year, ending on June 30th, to the OBFR by this date. For programs with different fiscal years, reports are due three months after the end of the year. 3. The CSBs shall have a management letter and plan of correction for deficiencies which must be sent with these reports. 4. Audit reports for CSBs that are local government departments or are included in local government audits are submitted to the Auditor of Public Accounts (APA) by the local government. 5. The CSB must forward a plan of correction for any audit deficiencies to the OBFR by this date. 6. To satisfy federal block grant sub-recipient monitoring requirements imposed on the Department under the Single Audit Act, a CSB that is a local government department or is included in its local government audit shall contract with the same CPA audit firm that audits its locality to perform testing related to the federal Mental Health Services and Substance Abuse Prevention and Treatment Block Grants. Alternately, the local government's internal audit department can work with the CSB and the Department to provide the necessary sub-recipient monitoring information. 7. If the CSB receives an audit identifying material deficiencies or containing a disclaimer or prepares the plan of correction referenced in the preceding paragraph, the CSB and the Department may negotiate an Exhibit D that addresses the deficiencies or disclaimer and includes a proposed plan with specific timeframes to address them.
12-31-20	<ol style="list-style-type: none"> 1. CSB Financial Analysts prepare transfers for payment 13 through 16 (January and February payments). For CSBs whose FY 2020 end of the fiscal year performance contract reports have been not verified as accurate and internally consistent, and whose CCS 3 monthly extracts for October have been not received, payments may not be released. 2. CSBs submit their CCS 3 monthly extract files for November to the OIT&S in time to be received by this date.
01-08-21	The OIS&T distributes FY 2021 mid-year performance contract report software in CARS
01-29-21	CSBs submit their CCS 3 monthly consumer, type of care, service, diagnosis, and outcomes extract files for December to the OIS&T in time to be received by this date.
02-19-21	<ol style="list-style-type: none"> 1. CSBs send complete mid-year performance contract reports and a revised Table 1: Board of Directors Membership Characteristics to the OIS&T electronically in CARS. 2. CSB Financial Analysts prepare transfers during February for payment 17 and 18 (March payments) for CSBs whose monthly CCS3 extract for December and CARS reports not received by the end of January; payments may not be released.

Exhibit E: FY21 and FY22 Performance Contract Process

DUE DATE	DESCRIPTION
	<p>3. CSB Financial Analysts prepare transfers during March for payments 19 and 20 (April payments) for CSBs whose complete FY 2020 mid-year performance contract reports not received by the due date, payments may not be released.</p>
02-26-21	<p>CSBs submit their CCS3 extract files for January to the OIS&T in time to be received by this date, for CSBs whose monthly CCS3 extract files for January were not received by the end of the month, payments may not be released.</p>
03-31-21	<ol style="list-style-type: none"> 1. CSBs submit their CCS 3 extract files for February to the OIS&T in time to be received by this date. 2. CSB Financial Analysts prepare transfers during March for payments 21 and 22 (May payments) for CSBs whose mid-year performance contract reports have not been verified as accurate and internally consistent and whose monthly CCS3 extract files for February were not received by the end of the month. Payments may not be released.
04-30-21	<ol style="list-style-type: none"> 1. CSBs submit their CCS 3 monthly consumer, type of care, service, diagnosis, and outcomes extract files for March to the OIS&T in time to be received by this date. 2. CSB Financial Analysts prepare transfers during May for payment 23 and 24 (June payments) for CSBs whose monthly CCS3 extract files for March were not received by the end of April, payments may not be released.
05-31-21	<ol style="list-style-type: none"> 1. CSBs submit their CCS 3 monthly extract files for April to the OIS&T in time to be received by this date, for CSBs whose monthly CCS 3 extract files for April were received by the end of May. 2. If April CCS 3 extract files are not received by May 31st, this may delay or even eliminate payment 24 due to time restrictions on when the Department can send transfers to the Department of Accounts for payment 24.
06-30-21	<p>CSBs submit their CCS 3 monthly extract files for May to the OIS&T by this date.</p>

Exhibit F: Federal Grant Compliance Requirements

Background

State agencies often administer federal awards received as pass-through funds to other non-federal entities. These non-federal recipient entities are called Subrecipients and they assist in carrying out various federally-funded programs. Subrecipients are typically units of local government (i.e. city and county agencies) but also include other entities such as Native American tribes, institutions of higher education, special districts and non-profits. The nature of these relationships are governed by federal statute, regulations, and policies in addition to state laws and regulations. The source of the funding determines the regulations and policies that govern the provision of the funds. The Substance Abuse and Mental Health Services Administration (SAMHSA) is the primary source of federal funds awarded to DBHDS. DBHDS also receives funds from the U.S. Department of Justice and the U.S. Department of Education.

As a primary recipient of federal funds, state agencies serve a pass-through role in which funds are subawarded to Subrecipients. Federal regulations require that pass-through entities provide monitoring of their Subrecipients which is outlined in Sections 200.330 through 200.345 in 2 C.F.R. Part 200 and Sections 75.300 through 75.391 in 45 C.F.R. Part 200 for SAMHSA awards. Further, audit requirements contained in 2 C.F.R. Part 200, Subpart F and 45 C.F.R. Part 75, Subpart F for SAMHSA awards, require that pass-through entities monitor the activities of their Subrecipient, as necessary, to ensure that federal awards are used appropriately and that performance goals are achieved.

In order to further the provision of necessary goods and services to the community, DBHDS may enter into federally-funded subrecipient relationships with Community Service Boards (CSBs). This exhibit provides compliance requirements for the federal grants that DBHDS serves as the pass-through entity to the CSBs.

Defined Terms

Drug-free Workplace – A site for the performance of work done in connection with a specific agreement awarded to a Subrecipient, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the agreement.

Intangible Property – Property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

Major Medical Equipment – An item intended for a medical use that has a cost of more than \$1,000 per unit.

Minor Renovation, Remodeling, Expansion, and Repair of Housing – Improvements or renovations to existing facilities or buildings that do not total more than \$5,000.

Notice of Award (NOA) – The formal documentation received from the federal awarding entity that notifies the recipient of a grant award. The document also typically outlines grant-specific compliance and reporting requirements.

Pass-Through Entity - Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Recipient – The non-federal entity that receives a grant award from a federal entity. The recipient may be the end user of the funds or may serve as a pass-through to subrecipient entities.

Exhibit F: Federal Grant Compliance Requirements

Subaward - An award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.

Subrecipient - A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

Unliquidated Obligations – An invoice for which the Subrecipient has already been allocated funding to pay by the pass-through entity that falls within timeframe for expending unliquidated obligations provided in Section III of this Exhibit. Unliquidated Obligations cannot include personnel costs and are limited to goods or services that were purchased or contracted for prior to the end of the Period of Performance but were not yet expensed as the goods or services were not yet received or the Subrecipient had not yet received an invoice.

I. Federal Grant Requirements for DBHDS as the Pass-through Entity

As the pass-through entity for federal grant funds, DBHDS must comply and provide guidance to the subrecipient in accordance with U.S. C.F.R. 2 § 200.331 and CFR 45 § 75.352 (for SAMHSA awards):

- A. Ensure every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward. If any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward:
 1. Subrecipient name (which must match the name associated with its unique entity identifier);
 2. Subrecipient's unique entity identifier;
 3. Federal Award Identification Number (FAIN);
 4. Federal Award Date (see § 75.2 Federal award date) of award to the recipient by the HHS awarding agency;
 5. Subaward Period of Performance Start and End Date;
 6. Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;
 7. Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current obligation;
 8. Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;
 9. Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);
 10. Name of HHS awarding agency, pass-through entity, and contract information for awarding official of the pass-through entity;
 11. CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;
 12. Identification of whether the award is R&D; and
 13. Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 75.414).
- B. Comply with all Federal statutes, regulations and the terms and conditions of the Federal award.
- C. The Department shall negotiate with the subrecipient an approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal Government or, if no

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such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this part), or a de minimis indirect cost rate as defined in § 75.414(f).

- D. The Department is responsible for monitoring the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include, but not limited to the following:
1. Reviewing financial and performance reports required by the pass-through entity.
 2. Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.
 3. Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by § 75.521.
 4. The Department shall evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring.
 5. The Department shall verify that every subrecipient is audited as required by subpart F when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 75.501.
 6. The Department shall consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

II. General Federal Grant Requirements for the Department and CSBs

The federal grants listed in Section IV of this Exhibit have requirements that are general to the federal agency that issues the funds. Included below are the general grant terms and conditions for each of the federal agencies for which DBHDS is the pass-through entity to the CSBs.

A. SAMHSA GRANT

1. **Grant Oversight:** The CSBs and the Department are legally and financially responsible for all aspects of this award including funds provided to sub-recipients, in accordance with 45 CFR §§ 75.351 – 75.352, Sub-recipient monitoring and management.
2. **Non-Supplant:** Federal award funds must supplement, not replace (supplant) nonfederal funds. All recipients who receive awards under programs that prohibit supplanting by law must ensure that federal funds do not supplant funds that have been budgeted for the same purpose through non-federal sources. Applicants or award recipients may be required to demonstrate and document that a reduction in non-federal resources occurred for reasons other than the receipt of expected receipt of federal funds.
2. **Unallowable Costs:** All costs incurred prior to the award issue date and costs not consistent with the Funding Opportunity Announcement (FOA), 45 CFR Part 75, and the HHS Grants Policy Statement, are not allowable under this award.
3. **Availability of Funds:** It is understood and agreed between the Subrecipient and DBHDS that DBHDS shall be bound hereunder only to the extent of the funds available or which may hereafter become available for the purpose of this agreement.
4. **Improper Payments:** Any item of expenditure by Subrecipient under the terms of this Agreement which is found by auditors, investigators, and other authorized

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representatives of DBHDS, the Commonwealth of Virginia, the U.S. Department of Health and Human Services, the U.S. Government Accountability Office or the Comptroller General of the United States to be improper, unallowable, in violation of federal or state law or the terms of the Notice of Award, Funding Opportunity Announcement, or this Agreement, or involving any fraudulent, deceptive, or misleading representations or activities of the Subrecipient, shall become Subrecipient's liability, to be paid by Subrecipient from funds other than those provided by DBHDS under this Agreement or any other agreements between DBHDS and the Subrecipient. This provision shall survive the expiration or termination of this Agreement.

5. **Conflicts of Interest Policy:** Recipients must establish written policies and procedures to prevent employees, consultants, and others (including family, business, or other ties) involved in grant supported activities, from involvement in actual or perceived conflicts of interest. The policies and procedures must:
 - a) Address conditions under which outside activities, relationships, or financial interests are proper or improper;
 - b) Provide for advance disclosure of outside activities, relationships, or financial interests to a responsible organizational official;
 - c) Include a process for notification and review by the responsible official of potential or actual violations of the standards; and
 - d) Specify the nature of penalties that may be imposed for violations.
6. **Restriction on Executive Pay:** The Consolidated Appropriations Act, 2019 (Pub. L.115-245) signed into law on September 28, 2018, limits the salary amount that may be awarded and charged to SAMHSA grants and cooperative agreements.

Award funds may not be used to pay the salary of an individual at a rate in excess of Executive Level II or \$192,300 annually. This amount reflects an individual's base salary exclusive of fringe and any income that an individual may be permitted to earn outside of the duties to the applicant organization. This salary limitation also applies to sub awards/subcontracts under a SAMHSA grant or cooperative agreement.

7. **Treatment of Property and Equipment:** If the Program permits the Subrecipient or entities that receive funding from the Subrecipient to purchase real property or equipment with grant funds, the Program retains a residual financial interest, enabling the Program to recover the assets or determine final disposition. This will be accomplished on a case-by-case basis, according to the federal grant guidelines applicable to the grant that is funding the service(s). Per 2 CFR 200.33 and 45 CFR 75.2, Equipment is defined as tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or \$5,000.
8. **Program Income:** Program income accrued under this grant award must be reported to the Recipient and must be used to further the objectives of the grant project and only for allowable costs.
9. **Travel:** Funds used to attend meetings, conferences or implement the activities of this grant must support the per diem applied to Federal travel costs for Meal and Incidental expenses. If meals are provided, the per diem must be reduced by the allotted meal cost(s).
10. **Fraud, Waste and Abuse Reporting:** The Subrecipient shall report any fraud, waste or abuse to the HHS Inspector General.

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11. **Financial Management**: Subrecipient shall maintain a financial management system and financial records and shall administer funds received pursuant to this agreement in accordance with all applicable federal and state requirements, including without limitation: 1) the Uniform Guidance, 45 C.F.R. Part 75; 2) the Notice of Award; and 3) Funding Opportunity Announcement. The Subrecipient shall adopt such additional financial management procedures as may from time to time be prescribed by DBHDS if required by applicable laws, regulations or guidelines from its federal and state government funding sources. Subrecipient shall maintain detailed, itemized documentation and records of all income received and expenses incurred pursuant to this Agreement.
12. **Audit of Financial Records**: The Subrecipient shall comply with the audit and reporting requirements defined by the Federal Office of Management and Budget (OMB) 2 CFR 200 (Audits of States, Local, Governments and Non-Profit organizations) and 45 CFR 75-500 – 75.521 as applicable. The Subrecipient will, if total federal funds expended are \$750,000 or more a year, have a single or program specific financial statement audit conducted for the annual period in compliance with the General Accounting Office audit standards (45 CFR 75-501(a)). Within thirty 30 days of the effective date of this Agreement, the Subrecipient will provide the Federal Grants Manager at DBHDS with a copy of its most recent (last) single audit. If any findings were noted in the audit report, corrective actions taken to fully resolve the finding must also be provided. If there are no audit findings, a letter indicating no findings shall be submitted. If a 2 CFR 200 or 45 CFR 75 audit occurs during the term of this Agreement, a copy of that audit and response to any findings must be provided to DBHDS' Federal Grants Manager within 30 days of the completion of the audit.

If total federal funds expended are less than \$750,000 for a year the Subrecipient is exempt from federal audit requirements (45 CFR 75-501(d)), however, the Subrecipient's records must be made available to the pass-through agency and appropriate officials of HHS, SAMHSA, the U.S. Government Accountability Office and the Comptroller General of the United States upon request, and it must still have a financial audit performed for that year by an independent Certified Public Accountant. Further, if applicable, within 30 days of the effective date of this Agreement, the Subrecipient must submit to DBHDS' Federal Grants Manager a written statement of exemptions to the single audit requirement and a copy of the most recent audited financial statement along with any findings and corrective action plans.

Should an audit by authorized state or federal official result in disallowance of amounts previously paid to the Subrecipient, the Subrecipient shall reimburse the ass-Through Agency upon demand.

Pursuant to 45 CFR 75.361, the Subrecipient shall retain all books, records, and other documents relative to this agreement for three (3) years from the date of the final expenditure report provided by the Department. In the event that any litigation, claim, or audit is initiated prior to the expiration of the 3 year period, all records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. DBHDS, its authorized agents, and/or federal or state auditors shall have full access to and the right to examine any of said materials during said period.

13. **Standards for Documentation of Personnel Expenses**: The Subrecipient shall comply with 2 CFR 200.430 and 45 CFR 75.430 Compensation-Personal Services

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and 2 CFR 200.431 and 45 CFR 75.431 Compensation-Fringe Benefits as required by the Federal Office of Management and Budget (OMB) Circular 2 CFR 200 (Cost Principles for State, Local and Indian Tribal Government). Per Standards for Documentation of Personnel Expenses 45 CFR 75.430(x)(3) in accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section (45 CFR 75.430), must also be supported by records indicating the total number of hours worked each day. As a result, all nonexempt employees paid in whole or in part from grant funds should prepare a timesheet indicating the hours worked on each specific project for each pay period. Based on these times sheets and hourly payroll cost for each employee, a statement indicating the distribution of payroll charges should be prepared and placed in the appropriate files and shall be made available for inspection.

17. **Accounting Records and Disclosures:** The Subrecipient must maintain records which adequately identify the source and application of funds provided for financially assisted activities, including awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income. The Subrecipient should expect that the Recipient and SAMHSA may conduct a financial compliance audit and on-site program review of this project.
18. **Federal Funding Accountability and Transparency Act (FFATA):** The Subrecipient will meet the following conditions in compliance with FFATA:
 - a) Maintain registration in the federal System Award Management (SAM) throughout the duration of this project, or at least five years;
 - b) Maintain a DUNS number and share it with DBHDS;
 - c) Provide address for primary Virginia service location(s), including nine digit zip code;
 - d) Provide Executive compensation information for five most highly compensated officers if all of the following apply:
 - i. The organization receives more than 80 percent of its annual gross revenues in Federal awards,
 - ii. The organization receives \$25,000,000 or more in annual gross revenues from Federal awards,
 - iii. Executive compensation has not previously been reported to any Federal Agency through any other reporting system.
19. **Mandatory Disclosures:** Pursuant to 45 CFR 75.113, the Subrecipient must report to the pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. These reports must be made in writing in a timely manner.
20. **English Language:** All communication between the pass-through entity and the Subrecipient must be in the English language and must utilize the terms of U.S. dollars. Information may be translated into other languages. Where there is inconsistency in meaning between the English language and other languages, the English language meaning shall prevail.
21. **Restrictions on Lobbying:** Pursuant to 45 CFR 75.215, no portion of these funds may be used to engage in activities that are intended to support or defeat the enactment of legislation before the Congress or Virginia General Assembly, or any local legislative body, or to support or defeat any proposed or pending regulation, administrative action, or order issued by the executive branch of any federal, state or local government, except in presentation to the executive branch of any State or local

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government itself. No portion of these funds can be used to support any personnel engaged in these activities. These prohibitions include any activity to advocate or promote any proposed, pending or future Federal, State or local tax increase, or any proposed, pending or future requirement or restriction on any legal consumer product, including its sale or marketing, including but not limited to the advocacy or promotion of gun control.

22. **Confidentiality of Alcohol and Drug Abuse Patient Records:** Regulations specified in 42 CFR Part 2 are applicable to any information about patients that are participating in a “program” as defined in 42 CFR 2.11 if the program is federally assisted in any manner (42 CFR 2.2b(1)(2)). Information may only be disclosed in accordance with 42 CFR Part 2, and the Subrecipient is responsible for assuring security and confidentiality of all electronically transmitted patient material.
23. **Intangible Property Rights** (Pursuant to 2 CFR 200.315 and 45 CFR 75.322):
- i. Title to intangible property acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally authorized purpose, and must not encumber the property without approval of the Federal awarding agency (SAMHSA). When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 CFR 200.313(e) and 45 CFR 75.320(e).
 - ii. The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and to authorize others to do so.
 - iii. The non-Federal entity is subject to applicable regulations governing patents and inventions, including government-wide regulations issued by the Department of Commerce at 37 CFR Part 401.
 - iv. The Federal Government has the right to: 1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal Award; and 2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.
 - v. Freedom of Information Act:
 - i. In response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal Government in developing an agency action that has the force and effect of law, the HHS awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the HHS awarding agency obtains the research data solely in response to a FOIA request, the HHS awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the HHS awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).
 - ii. Published research findings means when:

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- a. Research findings are published in a peer-reviewed scientific or technical journal; or
 - b. A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. “Used by the Federal Government in developing an agency action that has the force and effect of law” is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.
 - iii. Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: Preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This “recorded” material excludes physical objects (e.g., laboratory samples). Research data also do not include:
 - a. Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and
 - b. Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.
 - vi. The requirements set forth in paragraph (v)(i) of this section do not apply to commercial organizations.
 - vii. The pass-through agency reserves the irrevocable right to utilize any Intangible Property described above, royalty-free, for the completion of the terms of this Grant and Agreement.
24. **Crediting Grant on Publications and Conference Materials:** Conference materials and other publications funded by this agreement must include language that conveys the following:
- i. The publication, event or conference was funded [in part or in whole] by SAMHSA Grant #[APPLICABLE GRANT NUMBER MUST BE PROVIDED];
 - ii. The views expressed in written materials or by conference speakers and moderators do not necessarily reflect the official policies of the U.S. Department of Health and Human Services or the Executive Branch of the Commonwealth of Virginia;
 - iii. Mention of trade names, commercial practices or organizations does not imply endorsement by the U.S. Government or the Commonwealth of Virginia.
25. **Trafficking Victims Protection Act:** This agreement is subject to the requirements of Section 106(g) of the Trafficking Victims Protection Act of 2000, as amended (22 U.S.C. 7104). See <http://www.samhsa.gov/grants/grants-management/policies-regulations/additional-directives>.
26. **National Historical Preservation Act and Executive Order 13287, Preserve America:** The Subrecipient must comply with this federal legislation and executive order.

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27. **Executive Order 13410 Promoting Quality and Efficient Health Care in Federal Government Administered or Sponsored Health Care Programs:** In the exchange of patient level health information to external entities, the Subrecipient must:
- i. Use recognized health information interoperability standards at the time of any HIT system update, acquisition, or implementation, in all relevant information technology systems supported, in whole or in part, through this agreement; and
 - ii. Use Electronic Health Record systems (EHRs) that are certified by agencies authorized by the Office of the National Coordinator for Health Information Technology (ONC), or that will be certified during the life of this agreement.
28. **Welfare-to-Work:** The Subrecipient is encouraged to hire welfare recipients and to provide additional needed training and mentoring as needed.
29. **Applicable Laws and Courts:** This agreement shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The Subrecipient shall comply with all applicable federal, state and local laws, rules and regulations.
29. **Drug Free Workplace:** During the performance of this agreement, the Subrecipient agrees to 1) provide a drug-free workplace for the Subrecipient's employees; 2) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Subrecipient's workplace and specifying the actions that will be taken against employees for violations of such prohibition; 3) state in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient that the Subrecipient maintains a drug-free workplace; and 4) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
30. **Confidentiality of Alcohol and Drug Abuse Patient Records:** Pursuant to 45 CFR 2 all project patients' records are confidential and may be disclosed and used only in accordance with 42 CFR 2. The Subrecipient is responsible for assuring compliance with these regulations and principles including responsibility for assuring the security and confidentiality of all electronically transmitted patient material.
31. **Prohibition on the use of Marijuana for Treatment:** Grant funds may not be used, directly or indirectly, to purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental disorders. See, e.g., 45 C.F.R. § 75.300(a) (requiring HHS to "ensure that federal funding is expended . . . in full accordance with U.S. statutory . . . requirements."); 21 U.S.C. §§ 812(c)(10) and 841 (prohibiting the possession, manufacture, sale, purchase or distribution of marijuana). This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under an FDA-approved investigational new drug application where the article being evaluated is marijuana or a constituent thereof that is otherwise a banned controlled substance under federal law.
32. **Accessibility Provisions:** The Subrecipient must administer their programs in compliance with Federal civil rights law. This means that the Subrecipient must ensure equal access to their programs without regard to a person's race, color, national origin,

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disability, age, and in some circumstances, sex and religion. This includes ensuring the programs are accessible to persons with limited English proficiency.

33. **Immigration Reform and Control Act of 1986**: By entering into a written agreement with the Commonwealth of Virginia, the Subrecipient certifies that the Subrecipient does not, and shall not during the performance of the agreement for goods and/or services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
34. **Same-Sex Marriage Requirements**: Consistent with HHS policy and the purposes of SAMHSA programs, same-sex spouses/marriages are to be recognized in this program. This means that, as a recipient of these funds you are required to treat as valid the marriages of same-sex couples whose marriage was legal when entered into. This applies regardless of whether the couple now lives in a jurisdiction that recognizes same-sex marriage or a jurisdiction that does not recognize same-sex marriage. Any same-sex marriage legally entered into in one of the 50 states, the District of Columbia, a U.S. territory or a foreign country will be recognized. However, this does not apply to registered domestic partnerships, civil unions or similar formal relationships recognized under state law as something other than a marriage.
35. **Intent to Utilize Funding to Enter into a Procurement/Contractual Relationship**: If the Subrecipient utilizes any of these funds to contract for any goods or services, the Subrecipient must ensure that the resultant contract complies with the terms of Appendix II, 45 C.F.R. 75 which governs the contractual provisions for non-federal entity contracts under federal awards issued by the Department of Health and Human Services.
36. **Compliance with Federal Regulations/Statute/Policy**: The Subrecipient agrees to enforce, administer, and comply with any applicable federal regulations, statutes, or policies that are not otherwise mentioned in this agreement including 2 C.F.R. § 200, 45 C.F.R. § 75, the Department of Health and Human Services Grant Policy Statement, SAMHSA Grant Administration Policies and Regulations, the relevant Funding Opportunity Announcement (FOA), relevant Notice of Award (NOA), or any other source.
37. **Equal Treatment for Faith-Based Organizations**: The Subrecipient assures that it is and will continue to be in full compliance with the applicable provisions of 45 CFR Part 54, Charitable Choice Regulations, and 45 CFR Part 87, Equal Treatment for Faith-Based Organizations Regulations, in its receipt and use of federal Mental Health Services and SABG funds and federal funds for Projects for Assistance in Transitions from Homelessness programs. The regulations prohibit discrimination against religious organizations, provide for the ability of religious organizations to maintain their religious character, and prohibit religious organizations from using federal funds to finance inherently religious activities.

III. Federal Grant Specific Requirements

There are additional requirements to the grants included in Section IV of this Exhibit that are not universal to all grants that DBHDS administers. Included below, by grant name, is a list of the grant specific requirements as required by federal statute, regulation, and policy.

A. SAMHSA GRANTS

1. **State Opioid Response Grant (SUD Federal Opioid Response)**

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Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (TI-18-015) associated with the State Opioid Response Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. Restrictions on Expenditures:** State Opioid Response Grant funds may not be used to:
- i. Pay for any lease beyond the project period.
 - ii. Pay for the purchase or construction of any building or structure to house any part of the program. (Applicants may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
 - iii. Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
 - iv. Provide detoxification services unless it is part of the transition to MAT with extended release naltrexone.
 - v. Make direct payments to individuals to enter treatment or continue to participate in prevention or treatment services. Note: A recipient or treatment or prevention provider may provide up to \$30 non-cash incentive to individuals to participate in required data collection follow up. This amount may be paid for participation in each required follow-up interview.
 - vi. Meals are generally unallowable unless they are an integral part of a conference grant or specifically stated as an allowable expense in the Funding Opportunity Announcement. Grant funds may be used for light snacks, not to exceed \$3.00 per person.
 - vii. Support non-evidence-based treatment approaches.
 - viii. For services that can be supported through other accessible sources of funding such as other federal discretionary and formula grant funds, e.g. HHS (CDC, CMS, HRSA, and SAMHSA), DOJ (OJP/BJA) and non-federal funds, 3rd party insurance, and sliding scale self-pay among others.
 - ix. To provide a grant or subaward to any agency which would deny any eligible client, patient, or individual access to their program because of their use of FDA-approved medications for the treatment of substance use disorders.
 - x. To provide incentives to any health care professional for receipt of data waiver or any type of professional training development.
 - xi. Directly or indirectly, purchase, prescribe, or provide marijuana or treatment using marijuana. Treatment in this context includes the treatment of opioid use disorder. Grant funds also cannot be provided to any individual who or organization that provides or permits marijuana use for the purposes of treating substance use or mental health disorders. This prohibition does not apply to those providing such treatment in the context of clinical research permitted by the DEA and under and FDA-approved investigational new drug application where the article being evaluated is marijuana or a

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constituent thereof that is otherwise a banned controlled substance under federal law.

b. Expenditure Guidelines:

i. Grant funds:

- a) Shall be used to fund services and practices that have a demonstrated evidence-base, and that are appropriate for the population(s) of focus.
- b) For treatment and recovery support services grant funds shall only be utilized to provide services to individuals with a diagnosis of an opioid use disorder or to individuals with a demonstrated history of opioid overdose problems.
- c) May only fund FDA approved products.

c. Limitations on Reimbursements: Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided prior to the Effective Date of this agreement, or following 40 days after the end of the Period of Performance provided on the initial signature page of Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement

d. Closeout: Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days from the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

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In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

2. Substance Abuse Prevention and Treatment Block Grant (SUD FBG)

Pursuant to the Substance Abuse Prevention and Treatment Block Grant (SAPTBG) Funding Agreement and relevant federal statutes, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** No SAPTBG funds may not be used for any of the following purposes:
 - i. To provide inpatient hospital services unless it has been determined, in accordance with the guidelines issued by the Secretary of Health and Human Services, that such treatment is a medical necessity for the individual involved and that the individual cannot be effectively treated in a community-based, non-hospital, residential program of treatment;
 - ii. To make cash payments to intended recipients of health services;
 - iii. To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling with DBHDS, Federal Grants Manager approval) any building or other facility, or purchase major medical equipment as defined in the Defined Terms section of this Exhibit.
 - iv. To satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or
 - v. To provide financial assistance to any entity other than a public or non-profit entity.
 - vi. To carry out any program that provides individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the Public Health Service determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome. (42 US Code § 300x-31(a))
- b. **Grant Guidelines:**
 1. In the case of an individual for whom grant funds are expended to provide inpatient hospital services, as outlined above (A.a.), the Subrecipient shall not incur costs that are in excess of the comparable daily rate provided for community-based, non-hospital, residential programs of treatment for substance abuse (42 US Code § 300x-31(b)(2)).
 2. No entity receiving SAPTBG funding may participate in any form of discrimination on the basis of age as defined under the Age Discrimination Act of 1975 (42 US Code § 6101), on the basis of handicap as defined under section 504 of the Rehabilitation Act of 1973 (29 US Code § 794), on the basis of sex as defined under Title IX of the Education Amendments of 1972 (20 US Code § 1681) or on the basis of race, color, or

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national origin as defined under Title VI of the Civil Rights Act of 1964 (42 US Code § 2000) (42 US Code § 300x-57(a)(1)).

3. No person shall on the ground of sex, or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under section 300x or 300x-21 of title 42 US Code (42 US Code § 300x-57(a)(2)).
 4. The Subrecipient agrees to comply with the provisions of the Hatch Act (5 US Code § 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
 5. The Subrecipient will comply, as applicable with the provisions of the Davis-Bacon Act (40 US Code § 276(a) – 276(a)-7), the Copeland Act (40 US Code § 276(c) and 18 US Code § 874), and the Contract Work Hours and Safety Standards Act (40 US Code § 327-333), regarding labor standards for federally assisted construction subagreements.
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days prior to the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which

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Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

3. Community Mental Health Services Block Grant (MH FBG)

Pursuant to the Community Mental Health Services Block Grant (CMHSBG) Funding Agreement and relevant federal statutes, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** CMHSBG funds may not be used for any of the following purposes:
 1. To provide inpatient services;
 2. To make cash payments to intended recipients of health services;
 3. To purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling with DBHDS, Federal Grants Manager approval) any building or other facility, or purchase major medical equipment (as defined in the Definitions section of this Exhibit);
 4. To satisfy any requirement for the expenditure of non-federal funds as a condition for the receipt of federal funds; or
 5. To provide financial assistance to any entity other than a public or non-profit entity. (42 US Code § 300x-5(a))

- b. **Grant Guidelines:**
 1. No entity receiving CMHSBG funding may participate in any form of discrimination on the basis of age as defined under the Age Discrimination Act of 1975 (42 US Code § 6101), on the basis of handicap as defined under section 504 of the Rehabilitation Act of 1973 (29 US Code § 794), on the basis of sex as defined under Title IX of the Education Amendments of 1972 (20 US Code § 1681) or on the basis of race, color, or national origin as defined under Title VI of the Civil Rights Act of 1964 (42 US Code § 2000) (42 US Code § 300x-57(a)(1)).
 2. No person shall on the ground of sex, or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subject to discrimination under, any program or activity funded in whole or in part with funds made available under section 300x or 300x-21 of title 42 US Code (42 US Code § 300x-57(a)(2)).
 3. The Subrecipient must provide the services through appropriate, qualified community programs, which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs. Services may be provided through community mental health centers only if the centers provide: 1) Services principally to individuals residing in a defined geographic area (hereafter referred to as a "service area"); 2) Outpatient services, including specialized outpatient services for children, the elderly, individuals with a Serious Mental Illness (SMI), and residents of the service areas of the center who have been discharged from inpatient treatment at a mental health facility; 3) 24-hour-a-day emergency care services; 4) Day treatment or other partial hospitalization services, or psychosocial rehabilitation services; 5) Screening for patients being considered for admission to state mental health facilities

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to determine the appropriateness of such admission; 6) Services within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay; and 7) Services that are accessible promptly, as appropriate, and in a manner which preserves human dignity and assures continuity of high quality care (42 US Code § 300x-2(c)).

4. The Subrecipient agrees to comply with the provisions of the Hatch Act (5 US Code § 1501-1508 and 7324-7328) which limits the political activities of employees whose principal employment activities are funded in whole or in part with federal funds.
 5. The Subrecipient will comply, as applicable with the provisions of the Davis-Bacon Act (40 US Code § 276(a) – 276(a)-7), the Copeland Act (40 US Code § 276(c) and 18 US Code § 874), and the Contract Work Hours and Safety Standards Act (40 US Code § 327-333), regarding labor standards for federally assisted construction subagreements.
 6. Treatment and competency restoration services may be provided to individuals with a serious mental illness or serious emotional disturbance who are involved with the criminal justice system or during incarceration.
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days prior to the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the

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Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

4. Projects for Assistance in Transition from Homelessness (PATH)

Pursuant to the Notice of Award received by DBHDS, Funding Opportunity Announcements (SM-19-F2 and SM-20-F2), and relevant statutes associated with the Project for Assistance in Transition from Homelessness (PATH) Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** PATH funds may not be used for any of the following purposes:
 1. To support emergency shelters or construction of housing facilities;
 2. For inpatient psychiatric treatment costs or inpatient substance use disorder treatment costs; or
 3. To make cash payments to intended recipients of mental health or substance use disorder services (42 U.S. Code § 290cc-22(g)).
 4. For lease arrangements in association with the proposed project utilizing PATH funds beyond the project period nor may the portion of the space leased with PATH funds be used for purposes not supported by the grant.

- b. **Grant Guidelines:**
 1. All funds shall be used for the purpose of providing the following:
 - i. Outreach services;
 - ii. Screening and diagnostic treatment services;
 - iii. Habilitation and rehabilitation services;
 - iv. Community mental health services;
 - v. Alcohol or drug treatment services;
 - vi. Staff training including the training of individuals who work in shelters, mental health clinics, substance use disorder programs, and other sites where homeless individuals require services;
 - vii. Case management services including:
 1. Preparing a plan for the provision of community mental health services to the eligible homeless individual involved and reviewing such plan not less than once every three months;
 2. Providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individuals, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;
 3. Providing assistance to the eligible homeless individual in obtaining income support services, including housing assistance, supplemental nutrition assistance program benefits, and supplemental security income benefits;
 4. Referring the eligible homeless individual for such other services as may be appropriate; and

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5. Providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act (42 U.S. Code § 1383(a)(2)) if the eligible homeless individual is receiving aid under Title XVI of such act (42 U.S. Code § 1381 et seq.) and if the applicant is designated by the Secretary to provide such services;
 - viii. Supportive and supervisory services in residential settings;
 - ix. Referrals for primary health services, job training, educational services, and relevant housing services;
 - x. Minor renovation, expansion, and repair of housing (as defined in the Definitions section of this Exhibit);
 - xi. Planning of housing;
 - xii. Technical assistance in applying for housing assistance;
 - xiii. Improving the coordination of housing services;
 - xiv. Security deposits;
 - xv. The costs associated with matching eligible homeless individuals with appropriate housing situations;
 - xvi. One-time rental payments to prevent eviction;
 - xvii. Other appropriate services as determined by the Secretary of Health and Human Services (42 U.S. Code § 290cc-22(b)).
2. All funds shall only be utilized for providing the services outlined above to individuals who:
 - i. Are suffering from a serious mental illness; or
 - ii. Are suffering from a serious mental illness and from a substance use disorder; and
 - iii. Are homeless or at imminent risk of becoming homeless (42 U.S. Code § 290cc-22(a)).
 3. Funding may not be allocated to an entity that:
 - i. Has a policy of excluding individuals from mental health services due to the existence or suspicion of a substance use disorder; or
 - ii. Has a policy of excluding individuals from substance use disorder services due to the existence or suspicion of mental illness (42 U.S. Code § 290cc-22(e)).
 4. Match amounts agreed to with DBHDS may be:
 - i. Cash;
 - ii. In-kind contributions, that are fairly evaluated, including plant, equipment, or services.

Amounts provided by the federal government or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of match (42 U.S. Code § 290cc-23(b)).

5. Subrecipients may not discriminate on the basis of age under the Age Discrimination Act of 1975 (42 U.S. Code § 6101 et seq.), on the basis of handicap under section 504 of the Rehabilitation Act of 1973 (29 U.S. Code § 794), on the basis of sex under Title IX of the Education Amendments of 1972 (20 U.S. Code § 1681 et seq.), or on the basis of race, color, or national origin under Title VI of the Civil Rights Act of 1964 (42 U.S. Code § 2000d et seq.)(42 U.S. Code § 290cc-33(a)(1)).
 6. The Subrecipient shall not exclude from participation in, deny benefits to, or discriminate against any individuals that are otherwise eligible to participate in any program or activity funded from the PATH grant (42 U.S. Code § 290cc-33(a)(2)).
- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or

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other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days from the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 365 days after the end of the Period of Performance to pay for remaining allowable costs.

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 365 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 395th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS

PO Box 1797

Richmond, VA 23218-1797

C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

5. Strategic Prevention Framework Partnerships For Success (SPF-PFS) Grant

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (SP-15-003) associated with the Strategic Prevention Framework Partnerships for Success Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** SPF-PFS Grant funds may not be used for any of the following purposes:
1. Pay for any lease beyond the project period.

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2. Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
3. Pay for the purchase or construction of any building or structure to house any part of the program. (Subrecipients may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
4. Pay for housing other than residential mental health and/or substance use disorder treatment.
5. Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
6. Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
7. Only allowable costs associated with the use of federal funds are permitted to fund EBPs. Other sources of funds may be used for unallowable costs (e.g. meals, sporting events, entertainment). Other support is defined as funds or resources, whether federal, non-federal or institutional, in direct support of activities through fellowships, gifts, prizes, or in-kind contributions.
8. Make direct payments to individuals to induce them to enter prevention or treatment services. However, grant funds may be used for non-clinical support services (e.g. bus tokens, child care) designed to improve access to and retention in prevention and treatment programs.
9. Make direct payments to individuals to encourage attendance and/or attainment of prevention or treatment goals. However, grant funds may be used for non-cash incentives of up to \$30 to encourage attendance and/or attainment of prevention or treatment goals when the incentives are built into the program design and when the incentives are the minimum amount that is deemed necessary to meet program goals. SAMHSA policy allows an individual participant to receive more than one incentive over the course of the program. However, non-cash incentives should be limited to the minimum number of times deemed necessary to achieve program outcomes. A grantee or treatment or prevention provider may also provide up to \$30 cash or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.
10. Meals are generally unallowable unless they are an integral part of a conference grant or specifically stated as an allowable expense in the Performance Contract. Grant funds may be used for light snacks, not to exceed \$2.50 per person.
11. Funds may not be used to distribute sterile needles or syringes for the hypodermic injection of any illegal drug.
12. Pay for pharmacologies for HIV antiretroviral therapy, Sexually Transmitted Diseases (STD)/Sexually Transmitted Illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

b. **Grant Guidelines:**

1. Subrecipients must use the grant money to fund comprehensive, data-driven substance disorder use prevention strategies to continue to accomplish the following goals:
 - i. Prevent the onset and reduce the progression of substance use disorder;
 - ii. Reduce substance use disorder-related problems;
 - iii. Strengthen prevention capacity/infrastructure at the state, tribal, and community levels and;
 - iv. Leverage, redirect and align state/tribal-wide funding streams and resources for prevention.

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- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days from the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

6. Young Adult Substance Abuse Treatment Implementation Grant

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (TI-17-002) associated with the Youth Treatment Implementation Grant,

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the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

a. **Restrictions on Expenditures:** Young Adult Substance Abuse Treatment Implementation

Grant funds may not be used for any of the following purposes:

1. Pay for any lease beyond the project period.
2. Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
3. Pay for the purchase or construction of any building or structure to house any part of the program. (Subrecipients may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
4. Pay for housing other than residential mental health and/or substance use disorder treatment.
5. Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
6. Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
7. Only allowable costs associated with the use of federal funds are permitted to fund EBPs. Other sources of funds may be used for unallowable costs (e.g. meals, sporting events, entertainment). Other support is defined as funds or resources, whether federal, non-federal or institutional, in direct support of activities through fellowships, gifts, prizes, or in-kind contributions.
8. Make direct payments to individuals to induce them to enter prevention or treatment services. However, grant funds may be used for non-clinical support services (e.g. bus tokens, child care) designed to improve access to and retention in prevention and treatment programs.
9. Make direct payments to individuals to encourage attendance and/or attainment of prevention or treatment goals. However, grant funds may be used for non-cash incentives of up to \$30 to encourage attendance and/or attainment of prevention or treatment goals when the incentives are built into the program design and when the incentives are the minimum amount that is deemed necessary to meet program goals. SAMHSA policy allows an individual participant to receive more than one incentive over the course of the program. However, non-cash incentives should be limited to the minimum number of times deemed necessary to achieve program outcomes. A grantee or treatment or prevention provider may also provide up to \$30 cash or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.
10. Meals are generally unallowable unless they are an integral part of a conference grant or specifically stated as an allowable expense in the Performance Contract. Grant funds may be used for light snacks, not to exceed \$3.00 per person.
11. Consolidated Appropriations Act, 2016, Division H states, SEC. 520, notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant state or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the state or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law.

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12. Pay for pharmacologies for HIV antiretroviral therapy, Sexually Transmitted Diseases (STD)/Sexually Transmitted Illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

b. **Grant Guidelines:**

1. Funds must be used to improve capacity to increase access to treatment and to improve the quality of treatment for adolescents and transitional youth aged 16-25, and their families/primary caregivers through:
 - i. Expanding and enhancing SUD treatment services for adolescents and transitional youth aged 16-25;
 - ii. Involving families, adolescents, and transitional aged youth at the state/territorial/tribal/local levels to inform policy, program, and effective practice;
 - iii. Expanding the qualified workforce;
 - iv. Disseminating Evidence-Based Practices (EBPs);
 - v. Developing funding and payment strategies that support EBPs in the current funding environment; and
 - vi. Improving interagency collaboration.
2. Subrecipients must address each of the following required activities:
 - i. Provide outreach and other engagement strategies to increase participation in, and provide access to, treatment for diverse populations (i.e. ethnic, racial, sexual orientation, gender identity, etc.).
 - ii. Provide direct treatment including screening, assessment, care management, and recovery support for diverse populations at risk. Treatment must be provided in outpatient, intensive outpatient, or day treatment settings. Clients must be screened and assessed for the presence of substance use disorders and/or co-occurring mental and substance use disorders, using an assessment instrument(s) that is evidence-based, and use the information obtained from the screening and assessment to develop appropriate treatment approaches for the persons identified as having such disorders.
 - iii. Provide youth recovery support services and supports (e.g. recovery coaching, vocational, educational, and transportation services) designed to support recovery and improve access and retention.
 - iv. Provide the EBPs in assessment(s) and treatment intervention(s), selected in consultation with DBHDS for the population of focus.
 - v. Participate in a provider collaborative, managed by DBHDS, that, at a minimum, provides the following:
 1. Direct treatment for SUD and/or co-occurring substance use and mental disorders and recovery support services to the population of focus;
 2. Identifies and addresses common provider-level administrative challenges in providing substance abuse treatment and recovery support services to the population of focus;
 3. Develops and implements a common continuous quality improvement/quality assurance plan across the providers in the collaborative to improve the services provided;
 4. Identifies and addresses common barriers faced by the population of focus in accessing services; and
 5. Promotes coordination and collaboration with family support organizations to assist in the development of peer support services and strengthen services for the population of focus who have, or are at risk of SUD and/or co-occurring substance use and mental disorders.
3. Subrecipients must screen and assess clients for the presence of SUD and/or co-occurring mental and substance use disorders and use the information obtained from

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the screening and assessment to develop appropriate treatment approaches for the persons identified as having such co-occurring disorders.

4. Subrecipients must utilize third party and other revenue realized from the provision of services to the extent possible and use Youth Treatment Implementation Grant funds only for services to individuals who are not covered by public or commercial eHealth insurance programs, individuals for whom coverage has been formally determined to be unaffordable, or for services that are not sufficiently covered by an individual's health insurance plan. Subrecipients are also expected to facilitate the health insurance application and enrollment process for eligible uninsured clients. Subrecipients should also consider other systems from which a potential service recipient may be eligible for services if appropriate for and desired by that individual to meet his/her needs. In addition, subrecipients are required to implement policies and procedures that ensure other sources of funding are utilized first when available for that individual.

- c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

- d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days from the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O Ramona Howell

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which

Exhibit F: Federal Grant Compliance Requirements

Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient's obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

7. State Pilot Grant Program for Treatment for Pregnant and Postpartum Women (PPW)

Pursuant to the Notice of Award received by DBHDS and the Funding Opportunity Announcement (TI-17-016) associated with the PPW-PLT Grant, the following are requirements of the funding distributed to the Subrecipient as a result of this agreement.

- a. **Restrictions on Expenditures:** PPW Grant funds may not be used for any of the following purposes:
1. Pay for any lease beyond the project period.
 2. Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities, or in custody where they are not free to move about in the community).
 3. Pay for the purchase or construction of any building or structure to house any part of the program. (Subrecipients may request up to \$75,000 for renovations and alterations of existing facilities, if necessary and appropriate to the project.)
 4. Pay for housing other than residential mental health and/or substance use disorder treatment.
 5. Provide residential or outpatient treatment services when the facility has not yet been acquired, sited, approved, and met all requirements for human habitation and services provision. (Expansion or enhancement of existing residential services is permissible.)
 6. Provide inpatient treatment or hospital-based detoxification services. Residential services are not considered to be inpatient or hospital-based services.
 7. Only allowable costs associated with the use of federal funds are permitted to fund EBPs. Other sources of funds may be used for unallowable costs (e.g. meals, sporting events, entertainment). Other support is defined as funds or resources, whether federal, non-federal or institutional, in direct support of activities through fellowships, gifts, prizes, or in-kind contributions.
 8. Make direct payments to individuals to induce them to enter prevention or treatment services. However, grant funds may be used for non-clinical support services (e.g. bus tokens, child care) designed to improve access to and retention in prevention and treatment programs.
 9. Make direct payments to individuals to encourage attendance and/or attainment of prevention or treatment goals. However, grant funds may be used for non-cash incentives of up to \$30 to encourage attendance and/or attainment of prevention or treatment goals when the incentives are built into the program design and when the incentives are the minimum amount that is deemed necessary to meet program goals. SAMHSA policy allows an individual participant to receive more than one incentive over the course of the program. However, non-cash incentives should be limited to the minimum number of times deemed necessary to achieve program outcomes. A grantee or treatment or prevention provider may also provide up to \$30 cash or equivalent (coupons, bus tokens, gifts, child care, and vouchers) to individuals as incentives to participate in required data collection follow-up. This amount may be paid for participation in each required interview.

Exhibit F: Federal Grant Compliance Requirements

10. Meals are generally unallowable unless they are an integral part of a conference grant or specifically stated as an allowable expense in this Performance Contract. Grant funds may be used for light snacks, not to exceed \$3.00 per person.
11. Consolidated Appropriations Act, 2016, Division H states, SEC. 520, notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to purchase sterile needles or syringes for the hypodermic injection of any illegal drug. Provided, that such limitation does not apply to the use of funds for elements of a program other than making such purchases if the relevant state or local health department, in consultation with the Centers for Disease Control and Prevention, determines that the state or local jurisdiction, as applicable, is experiencing, or is at risk for, a significant increase in hepatitis infections or an HIV outbreak due to injection drug use, and such program is operating in accordance with state and local law.
12. Pay for pharmacologies for HIV antiretroviral therapy, Sexually Transmitted Diseases (STD)/Sexually Transmitted Illnesses (STI), TB, and hepatitis B and C, or for psychotropic drugs.

b. **Grant Guidelines:**

1. Subrecipients must utilize third party and other revenue realized from the provision of services to the extent possible and use grant funds only for services to individuals who are not covered by public or commercial health insurance programs, individuals for whom coverage has been formally determined to be unaffordable, or for services that are not sufficiently covered by an individual's health insurance plan.

c. **Limitations on Reimbursements:** Subrecipient shall not be reimbursed or otherwise compensated for any expenditures incurred or services provided following the end of the Period of Performance provided in Exhibit D.

DBHDS shall only reimburse or otherwise compensate the Subrecipient for documented expenditures incurred during this period that are: 1) reasonable and necessary to carry out the agreed upon scope of service outlined in Exhibit D, 2) documented by contracts or other evidence of liability consistent with established DBHDS and Subrecipient procedures; and 3) incurred in accordance with all applicable requirements for the expenditure of funds payable under this agreement.

d. **Closeout:** Final payment request(s) under this Agreement must be received by DBHDS no later than thirty (30) days from the end of the Period of Performance referenced in the Exhibit D. No payment request will be accepted by DBHDS after this date without authorization from DBHDS. The Subrecipient may continue to expend retained funds until 40 days after the end of the Period of Performance to pay for unliquidated obligations as defined in this agreement

Any funds remaining unexpended and unobligated at the end of the Period of Performance shall be returned to DBHDS within 30 days of the end of the Period of Performance. Any funds distributed to the Subrecipient by the pass-through entity that remain unexpended by 40 days after the end of the Period of Performance shall be returned to DBHDS. The Subrecipient will send these funds to DBHDS by no later than the end of the 75th day after the end of the Performance Period. Unexpended funds should be returned in the form of a check made payable to the Treasurer of Virginia and sent to:

DBHDS
PO Box 1797
Richmond, VA 23218-1797
C/O Ramona Howell

Exhibit F: Federal Grant Compliance Requirements

Failure to return unexpended funds in a prompt manner may result in a denial of future federal Subrecipient awards from DBHDS.

In consideration of the execution of this agreement by DBHDS, the Subrecipient agrees that acceptance of final payment from DBHDS will constitute an agreement by the Subrecipient to release and forever discharge DBHDS, its agents, employees, representatives, affiliates, successors and assigns from any and all claims, demands, damages, liabilities, actions, causes of action or suits of any nature whatsoever, which Subrecipient has at the time of acceptance of final payment or may thereafter have, arising out of or in any way relating to any and all injuries and damages of any kind as a result of or in any way relating to this agreement. Subrecipient’s obligations to DBHDS under this agreement shall not terminate until all closeout requirements are completed to the satisfaction of DBHDS. Such requirements shall include, without limitation, submitting final reports to DBHDS and providing any closeout-related information requested by DBHDS by the deadlines specified by DBHDS. This provision shall survive the expiration or termination of this agreement.

IV. List of Federal Grants

Provided in the chart below is a current list of the federal grants that DBHDS passes-through to CSBs and the required identifying information that should be used to categorize and track these funds.

SAMHSA GRANTS	
<p>GRANT NAME: State Opioid Response Grant (SUD Federal Opioid Response) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI081682 FEDERAL AWARD DATE: 2/19/2018 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.788 RESEARCH AND DEVELOPMENT AWARD: <u> </u> YES OR <u> X </u> NO FEDERAL GRANT AWARD YEAR: FFY 2019 AWARD PERIOD: 9/30/2019 – 9/29/2020</p>	<p>GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B08TI010053-19 FEDERAL AWARD DATE: 6/12/2019 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.959 RESEARCH AND DEVELOPMENT AWARD: <u> </u> YES OR <u> X </u> NO FEDERAL GRANT AWARD YEAR: FFY 2019 AWARD PERIOD: 10/1/2018 – 9/30/2020</p>

Exhibit F: Federal Grant Compliance Requirements

<p>GRANT NAME: Substance Abuse Prevention and Treatment Block Grant (SUD FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B08TI010053-20 FEDERAL AWARD DATE: TBD FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.959 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO INDIRECT COST RATE: Federally Negotiated Rate or 10% if None Exists FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 10/1/2019 – 9/30/2021</p>	<p>GRANT NAME: Community Mental Health Services Block Grant (MH FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B09SM010053-19 FEDERAL AWARD DATE: 12/26/2018 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.958 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO INDIRECT COST RATE: Federally Negotiated Rate or 10% if None Exists FEDERAL GRANT AWARD YEAR: FFY 2019 AWARD PERIOD: 10/1/2018 – 9/30/2020</p>
<p>GRANT NAME: Community Mental Health Services Block Grant (MH FBG) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): B09SM010053-20 FEDERAL AWARD DATE: TBD FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.958 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 10/1/2019 – 9/30/2021</p>	<p>GRANT NAME: Projects for Assistance in Transition from Homelessness (PATH) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): X06SM016047-19 FEDERAL AWARD DATE: 8/28/2019 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.15 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO FEDERAL GRANT AWARD YEAR: FFY 2019 AWARD PERIOD: 9/1/2019 – 8/31/2020</p>
<p>GRANT NAME: Projects for Assistance in Transition from Homelessness (PATH) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): X06SM016047-20 FEDERAL AWARD DATE: TBD FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.15 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/1/2020 – 8/31/2021</p>	<p>GRANT NAME: Strategic Prevention Framework Partnerships For Success (SPF-PFS) Grant FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): SP020791 FEDERAL AWARD DATE: 2/8/2016 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.243 RESEARCH AND DEVELOPMENT AWARD: <input type="checkbox"/> YES OR <input checked="" type="checkbox"/> NO FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/30/2019 – 9/29/2020</p>

Exhibit F: Federal Grant Compliance Requirements

<p>GRANT NAME: Young Adult Substance Abuse Treatment Implementation Grant (YSAT) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI080197 FEDERAL AWARD DATE: 5/16/2017 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.243 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___ NO INDIRECT COST RATE: Federally Negotiated Rate or 10% if None Exists FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/30/2019 – 9/29/2020</p>	<p>GRANT NAME: Young Adult Substance Abuse Treatment Implementation Grant (YSAT) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): H79TI080197 FEDERAL AWARD DATE: TBD FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.243 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___ NO INDIRECT COST RATE: Federally Negotiated Rate or 10% if None Exists FEDERAL GRANT AWARD YEAR: FFY 2021 AWARD PERIOD: 9/30/2020 – 9/29/2021</p>
<p>GRANT NAME: State Pilot Grant Program for Treatment for Pregnant and Postpartum Women (PPW) FEDERAL AWARD IDENTIFICATION NUMBER (FAIN): TI080766 FEDERAL AWARD DATE: 9/14/2017 FEDERAL AWARDDING AGENCY: Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) FEDERAL AWARD PASS-THROUGH ENTITY: Virginia Department of Behavioral Health and Developmental Services CFDA NUMBER: 93.243 RESEARCH AND DEVELOPMENT AWARD: ___ YES OR ___X___ NO INDIRECT COST RATE: Federally Negotiated Rate or 10% if None Exists FEDERAL GRANT AWARD YEAR: FFY 2020 AWARD PERIOD: 9/30/2019 – 9/29/2020</p>	

Exhibit M

Department of Justice Settlement Agreement Requirements

The CSB agrees to comply with the following requirements in the Settlement Agreement for Civil Action No: 3:12cv00059-JAG between the U.S. Department of Justice (DOJ) and the Commonwealth of Virginia, entered in the U. S. District Court for the Eastern District of Virginia on August 23, 2012 [section IX.A, p. 36].

Sections identified in text or brackets refer to sections in the Agreement. Requirements apply to the target population in section III.B: individuals with developmental disabilities who currently reside in training centers, (ii) meet criteria for the DD Waiver waiting list, (iii) reside in a nursing home or an intermediate care facility (ICF), or (iv) receive DD Waiver services.

- 1.) Case Managers or Support Coordinators shall provide anyone interested in accessing DD Waiver Services with a DBHDS provided resource guide that contains information including but not limited to case management eligibility and services, family supports including the IFSP Funding Program, family and peer supports, information on how to access REACH services, and information on where to access general information. [section III.C.2. a-f, p. 1].
- 2.) Case management services, defined in section III.C.5.b, shall be provided to all individuals receiving Medicaid Home and Community-Based Waiver services under the Agreement by case managers or support coordinators who are not directly providing or supervising the provision of Waiver services to those individuals [section III.C.5.c, p. 8].
- 3.) For individuals receiving case management services pursuant to the Agreement, the individual's case manager or support coordinator shall meet with the individual face-to-face on a regular basis and shall conduct regular visits to the individual's residence, as dictated by the individual's needs [section V.F.1, page 26]. At these face-to-face meetings, the case manager or support coordinator shall: observe the individual and the individual's environment to assess for previously unidentified risks, injuries, needs, or other changes in status; assess the status of previously identified risks, injuries, needs, or other changes in status; assess whether the individual's individual support plan (ISP) is being implemented appropriately and remains appropriate for the individual; and ascertain whether supports and services are being implemented consistent with the individual's strengths and preferences and in the most integrated setting appropriate to the individual's needs. The case manager or support coordinator shall document in the ISP the performance of these observations and assessments and any findings, including any changes in status or significant events that have occurred since the last face-to-face meeting. If any of these observations or assessments identifies an unidentified or inadequately addressed risk, injury, need, or change in status, a deficiency in the individual's support plan or its implementation, or a discrepancy between the implementation of supports and services and the individual's strengths and preferences, then the case manager or support coordinator shall report and document the issue in accordance with Department policies and regulations, convene the individual's service planning team to address it, and document its resolution.
 - a.) DBHDS shall develop and make available training for CSB case managers and leadership staff on how to assess change in status and that ISPs are implemented appropriately.
 - b.) CSB shall ensure that all case managers and case management leadership complete the training that helps to explain how to identify change in status and that elements of the ISP are implemented appropriately.
 - c.) The CSB shall deliver the contents of the DBHDS training through support coordinator supervisors or designated trainers to ensure case managers understand the definitions of

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“change in status” and “ISP implemented appropriately,” as well as how to apply and document observations and needed actions.

- d.) DBHDS shall provide a tool with elements for the case managers to utilize during face-to-face visits to assure that changes in status as well as ISP are implemented appropriately and documented.
 - e.) CSB shall ensure that all case managers use the DBHDS On-Site Visit Tool during quarterly face-to-face contacts to assess at each visit whether or not each person receiving targeted case management under the waiver experienced a change in status and to assess whether or not the ISP was implemented appropriately.
 - f.) CSB case manager/support coordinator will complete the risk awareness tool developed by DBHDS to identify individuals with behavioral or medical risks and ensure providers have in place appropriate risk mitigation plans.
- 4.) Using the process developed jointly by the Department and Virginia Association of Community Services Boards (VACSB) Data Management Committee (DMC), the CSB shall report the number, type, and frequency of case manager or support coordinator contacts with individuals receiving case management services [section V.F.4, p. 27].
 - 5.) The CSB shall report key indicators, selected from relevant domains in section V.D.3 on page 24, from the case manager’s or support coordinator’s face-to-face visits and observations and assessments [section V.F.5, p 27]. **Reporting in WaMS shall include the provision of data and actions related to DBHDS-defined elements regarding a change in status and the ISP being implemented appropriately in a format, frequency, and method determined by DBHDS** [section III.C.5.b.i.].
 - 6.) The individual’s case manager or support coordinator shall meet with the individual face-to-face at least every 30 days (**including a 10 day grace period but no more than 40 days between visits**), and at least one such visit every two month must be in the individual’s place of residence, for any individuals who [section V.F.3, pages 26 and 27]:
 - a.) Receive services from providers having conditional or provisional licenses;
 - b.) Have more intensive behavioral or medical needs as defined by the Supports Intensity Scale category representing the highest level of risk to individuals
 - c.) Have an interruption of service greater than 30 days;
 - d.) Encounter the crisis system for a serious crisis or for multiple less serious crises within a three-month period;
 - e.) Have transitioned from a training center within the previous 12 months; or
 - f.) Reside in congregate settings of five or more individuals. Refer to Enhanced Case Management Criteria Instructions and Guidance issued by the Department.
 - 7.) Case managers or support coordinators shall give individuals a choice of service providers from which they may receive approved DD Waiver services, present all options of service providers based on the preferences of the individuals, including CSB and non-CSB providers, and document this using the Virginia Informed Choice Form in the waiver management system (WaMS) application. [section III.C.5.c, p. 8].

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- 8.) The CSB shall complete the Support Coordinator quality review process for a statistically significant sample size as outlined in the Support Coordinator Quality Review Process:
 - a.) DBHDS shall annually pull a statistically significant stratified sample of individuals receiving HCBBS waiver services and send this to the CSB to be utilized to complete the review.
 - b.) The CSB shall complete the number of Support Coordinator Quality Reviews as outlined by the process.
 - c.) DBHDS shall analyze the data submitted to determine the following elements are met:
 - i. Choice of case manager/provider
 - ii. Risk and risk mitigation plans are in place
 - iii. Change of status
 - iv. Measurable Outcomes
 - v. Developed with professionals/non-professionals
 - vi. Necessary services and supports identified
 - vii. Collaborations
 - viii. Identified needed supports and services incorporated
 - ix. Services implemented appropriately
 - d.) DBHDS will complete a semi-annual report as part of the work of the Case Management Steering Committee and will provide follow up to the CSB regarding both positive and negative outcomes as a result of case management data review.
 - e.) DBHDS shall provide technical assistance to the CSB if 2 or more records do not meet 86% compliance for two consecutive quarters.
 - f.) DBHDS shall conduct on site annual retrospective reviews at each CSB to validate findings of the CSB Support Coordinator Quality Review to provide technical assistance for any areas needing improvement. To assure consistency between reviewers, DBHDS shall complete an inter-rater reliability process.
- 9.) Case managers or support coordinators shall offer education about integrated community options to any individuals living outside of their own or their families' homes and, if relevant, to their authorized representatives or guardians [section III.D.7, p. 14]. Case managers shall offer this education at least annually and at the following times:
 - a. at enrollment in a DD Waiver,
 - b. when there is a request for a change in Waiver service provider(s),
 - c. when an individual is dissatisfied with a current Waiver service provider,
 - d. when a new service is requested,
 - e. when an individual wants to move to a new location, or
 - f. when a regional support team referral is made as required by the Virginia Informed Choice Form.
- 10.) For individuals receiving case management services identified to have co-occurring mental health conditions or engage in intense behaviors, the individual's case manager or support coordinator shall assure that effective community based behavioral health and/or behavioral supports and services are identified and accessed where appropriate and available. If the case manager or support coordinator incurs capacity issues related to accessing needed behavioral support services in their designated Region, every attempt to secure supports should be made to include adding the individual to several provider waitlists (e.g. based upon individualized

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needs, this may be inclusive of psychotherapy, psychiatry, counseling, applied behavior analysis/positive behavior support providers, etc.) and following up with these providers quarterly to determine waitlist status.

- 11.) The CSB shall identify children and adults who are at risk for crisis through the standardized crisis screening tool or through the utilization of the elements contained in the tool at intake, and if the individual is identified as at risk for crisis or hospitalization, shall refer the individual to REACH. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.2]
- 12.) For individuals that receive enhanced case management, the case manager or support coordinator shall utilize the standardized crisis screening tool monthly; for individuals that receive targeted case management, the case manager or support coordinator shall use the standardized crisis screening tool quarterly. Any individual that is identified as at risk for crisis shall be referred to REACH. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.3]
- 13.) The CSB shall ensure that CSB Executive Directors, Developmental Disability Directors, case management or support coordination supervisors, case managers or support coordinators, and intake workers participate in training on how to identify children and adults that are at risk for going into crisis. CSBs shall ensure that training on identifying risk of crisis for intake workers and case managers (or support coordinators) shall occur within 6 months of hire. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.5]
- 14.) The CSB shall provide data on implementation of the crisis screening tool as requested by DBHDS when it is determined that individual with a developmental disability has been hospitalized and has not been referred to the REACH program. The CSB shall provide a “statistically significant” number of the crisis screening tools/ or documentation of the elements contained within in the tool completed during the 1st six months and annually thereafter for the Department to review to ensure the tool is being implemented as designed and is appropriately identifying people at risk of crisis. [S.A. Provision: III.C.6.a.i-iii Filing reference: 7.6]
 - a.) DBHDS shall develop the risk of crisis/hospitalization elements and tool in partnership with the VACSB.
 - b.) DBHDS shall develop a training on assessing risk of crisis/hospitalization for the CSB to utilize to train staff.
 - c.) DBHDS shall initiate a quality review process monthly to include requesting documentation for anyone hospitalized who was not referred to the REACH program and either actively receiving case manager during the time frame or for whom an intake was completed prior to hospitalization.
- 15.) CSB Case manager shall work with the REACH program to identify a community residence within 30 days of admission to the program including making a referral to RST when the system has been challenged unable to find an appropriate provider within this timeframe.
- 16.) CSB emergency services shall be available 24 hours per day and seven days per week, staffed with clinical professionals who shall be able to assess crises by phone, assist callers in identifying and connecting with local services, and, where necessary, dispatch at least one mobile crisis team member adequately trained to address the crisis for individuals with developmental disabilities [section III.C.6.b.i.A, p. 9]. The mobile crisis team shall be dispatched from the Regional Education Assessment Crisis Services Habilitation (REACH) program that is staffed 24 hours per day and seven days per week by qualified persons able to assess and assist individuals and their families during crisis situations and has mobile

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crisis teams to address crisis situations and offer services and support on site to individuals and their families within one hour in urban areas and two hours in rural areas as measured by the average annual response time [section III.C.6.b.ii, pages 9 and 10]. All Emergency services staff and their supervisors shall complete the REACH training that is part of the emergency services training curriculum.

- a.) DBHDS shall create and update a REACH training for emergency staff and make available through the agency training website.

CSB emergency services shall notify the REACH program of any individual suspected of having a developmental disability who is experiencing a crisis and seeking emergency services as soon as possible, preferably prior to the initiation of a preadmission screening evaluation. Early notification would allow REACH and emergency services to appropriately divert the individual from admission to psychiatric inpatient services when possible.

If the CSB has an individual receiving services in the REACH Crisis Therapeutic Home (CTH) program with no plan for placement and a length of stay that shall soon exceed 30 concurrent days, the CSB Executive Director or his or her designee shall provide a weekly update describing efforts to achieve an appropriate discharge for the individual to the Director of Community Support Services in the Department's Division of Developmental Services or his/her designee.

- a.) DBHDS shall notify the CSB executive director when it is aware of a person at the REACH CTH who is nearing a 30-day concurrent stay.

- 17.) Comply with State Board Policy 1044 (SYS) 12-1 Employment First [section III.C.7.b, p. 11]. This policy supports identifying community-based employment in integrated work settings as the first and priority service option offered by case managers or support coordinators to individuals receiving day support or employment services.

- a.) CSB case managers shall initiate meaningful employment conversations with individuals starting at the age of 14 until the age of retirement 65.
- b.) CSB case managers shall document goals for or toward employment for individuals 18-64 or the specific reasons that employment is not being pursued or considered.
- c.) DBHDS shall create training and tools for case managers around meaningful conversation around employment including for people with complex medical and behavioral support needs.

- 18.) CSB case managers or support coordinators shall liaise with the Department's regional community resource consultants in their regions [section III.E.1, p. 14].

- 19.) Case managers or support coordinators shall participate in discharge planning with individuals' personal support teams (PSTs) for individuals in training centers for whom the CSB is the case management CSB, pursuant to § 37.2-505 and § 37.2-837 of the Code that requires the CSB to develop discharge plans in collaboration with training centers [section IV.B.6, p. 16].

- 20.) CSB shall actively participate in discharge planning for individuals in Nursing Facilities or ICF IID where a community placement is being sought by the individual or their family.

- 21.) In developing discharge plans, CSB case managers or support coordinators, in collaboration with facility PSTs, shall provide to individuals and, where applicable, their authorized representatives, specific options for types of community placements, services, and supports

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based on the discharge plan and the opportunity to discuss and meaningfully consider these options [section IV.B.9, p. 17].

- 22.) CSB case managers or support coordinators and PSTs shall coordinate with specific types of community providers identified in discharge to provide individuals, their families, and, where applicable, their authorized representatives with opportunities to speak with those providers, visit community placements (including, where feasible, for overnight visits) and programs, and facilitate conversations and meetings with individuals currently living in the community and their families before being asked to make choices regarding options [section IV.B.9.b, p. 17].
- 23.) CSB case managers or support coordinators and PSTs shall assist individuals and, where applicable, their authorized representatives in choosing providers after providing the opportunities described in subsection 13 above and ensure that providers are timely identified and engaged in preparing for individuals' transitions [section IV.B.9.c, p.17].
- 24.) Case managers or support coordinators shall provide information to the Department about barriers to discharge for aggregation and analysis by the Department for ongoing quality improvement, discharge planning, and development of community-based services [IV.B.14, p. 19].
- 25.) In coordination with the Department's Post Move Monitor, the CSB shall conduct post-move monitoring visits within 30, 60, and 90 days following an individual's movement from a training center to a community setting [section IV.C.3, p.19]. The CSB shall provide information obtained in these post move monitoring visits to the Department within seven business days after the visit.
- 26.) If a CSB provides day support or residential services to individuals in the target population, the CSB shall implement risk management and quality improvement processes, including establishment of uniform risk triggers and thresholds that enable it to adequately address harms and risks of harms, including any physical injury, whether caused by abuse, neglect, or accidental causes [section V.C.1, p. 22].
- 27.) Using the protocol and the real-time, web-based incident reporting system implemented by the Department, the CSB shall report any suspected or alleged incidents of abuse or neglect as defined in § 37.2-100 of the Code, serious injuries as defined in 12 VAC 35- 115-30 of the *Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded, or Operated by the Department of Behavioral Health and Developmental Services*, available at the Internet link in Exhibit L, or deaths to the Department within 24 hours of becoming aware of them [section V.C.2, p. 22].
- 27.) Participate with the Department to collect and analyze reliable data about individuals receiving services under this Agreement from each of the following areas:
 - a.) safety and freedom from harm,
 - b.) physical, mental, and behavioral
 - c.) avoiding crises,
 - d.) choice and self-determination,
 - e.) community inclusion, health and well-being,
 - f.) access to services,
 - g.) provider capacity,
 - h.) stability, [section V.D.3, pgs. 24 & 25].

Exhibit M

Department of Justice Settlement Agreement Requirements

- 28.) Participate in the regional quality council established by the Department that is responsible for assessing relevant data, identifying trends, and recommending responsive actions in its region [section V.D.5.a, p. 25].
- 29.) Provide access and assist the Independent Reviewer to assess compliance with this Agreement. The Independent Reviewer shall exercise his access in a manner that is reasonable and not unduly burdensome to the operation of the CSB and that has minimal impact on programs or services being provided to individuals receiving services under the Agreement [section VI.H, p. 30 and 31].
- 30.) Participate with the Department and its third party vendors in the implementation of the National Core Indicators (NCI) Surveys and Quality Service Reviews (QSRs) for selected individuals receiving services under the Agreement. This includes informing individuals and authorized representatives about their selection for participation in the NCI individual surveys or QSRs; providing the access and information requested by the vendor, including health records, in a timely manner; assisting with any individual specific follow up activities; and completing NCI surveys [section V.I, p. 28].
 - a.) During FY 21, the QSR process will be accelerated and will require the CSB to fully participate in the completion of QSR implementation twice during a nine-month period. This will ensure that the Commonwealth can show a complete improvement cycle intended by the QSR process by the settlement agreement exit date of June 30, 2021. Please see the attached GANTT chart that details the schedule for the QSR reviews of 100% of the providers including support coordinators for two cycles.
- 31.) The CSB shall notify the community resource consultant (CRC) and regional support team (RST) in the following circumstances to enable the RST to monitor, track, and trend community integration and challenges that require further system development:
 - a.) within five calendar days of an individual being presented with any of the following residential options: an ICF, a nursing facility, a training center, or a group home/congregate setting with a licensed capacity of five beds or more;
 - b.) if the CSB is having difficulty finding services within 30 calendar days after the individual's enrollment in the waiver; or
 - c.) immediately when an individual is displaced from his or her residential placement for a second time [sections III.D.6 and III.E, p. 14].
 - d.) DBHDS shall provide data to CSB on their compliance with the RST referral and implementation process and provide technical assistance to those CSBs that are not meeting expectations.
 - e.) DBHDS shall utilize the RST data to evaluate gaps on a semi-annual basis and work to develop providers in underserved areas.
 - f.) DBHDS shall provide information quarterly to the CSB on individuals who chose less integrated options due to the absence of something more integrated at the time of the RST review and semi-annually shall notify CSBs of new providers of more integrated services so that individuals who had to choose less integrated options can be made aware of these new services and supports.
- 17.) Case managers or support coordinators shall collaborate with the CRC to ensure that person-centered planning and placement in the most integrated setting appropriate to the individual's needs and consistent with his or her informed choice occur [section III.E.1- 3, p. 14].

Exhibit M

Department of Justice Settlement Agreement Requirements

- a.) DBHDS shall assure availability of DBHDS CRC to work with case managers to explore community integrated options including working with providers to create innovative solutions for people

The Department encourages the CSB to provide the Independent Reviewer with access to its services and records and to individuals receiving services from the CSB; however, access shall be given at the sole discretion of the CSB [section VI.G, p. 31].

u. Developmental Case Management Services

- 1.) Case managers or support coordinators employed or contracted by the CSB shall meet the knowledge, skills, and abilities qualifications in the Case Management Licensing Regulations, 12 VAC 35-105-1250. During its inspections, the Department's Licensing Office may verify compliance as it reviews personnel records.
- 2.) Reviews of the individual support plan (ISP), including necessary assessment updates, shall be conducted with the individual quarterly or every 90 days and include modifications in the ISP when the individual's status or needs and desires change.

During its inspections, the Department's Licensing Office may verify this as it reviews the ISPs including those from a sample identified by the CSB of individuals who discontinued case management services.

- 3.) The CSB shall ensure that all information about each individual, including the ISP and VIDES, is imported from the CSB's electronic health record (EHR) to the Department within five (5) business days through an electronic exchange mechanism mutually agreed upon by the CSB and the Department into the electronic waiver management system (WaMS). If the CSB is unable to submit via the data exchange process, it shall enter this data directly through WaMS, when the individual is entered the first time for services, or when his or her living situation changes, her or his ISP is reviewed annually, or whenever changes occur, including information about the individual's:
 - a.) full name,
 - b.) social security number,
 - c.) Medicaid number,
 - d.) CSB unique identifier,
 - e.) current physical residence address,
 - f.) living situation (e.g., group home, family home, or own home),
 - g.) level of care information,
 - h.) change in status,
 - i.) terminations,
 - j.) transfers,
 - k.) waiting list information,
 - m.) bed capacity of the group home if that is chosen.
- 4.) Case managers or support coordinators and other CSB staff shall comply with the SIS[®] Administration Process and any changes in the process within 30 calendar days of notification of the changes.
- 5.) Case managers or support coordinators shall notify the Department's service authorization staff that an individual has been terminated from all DD waiver services within 10 business days of termination.
- 6.) Case managers or support coordinators shall assist with initiating services within 30 calendar days of waiver enrollment and shall submit Request to Retain Slot forms as required by the Department. All written denial notifications to the individual, and family/caregiver, as appropriate, shall be accompanied by the standard appeal rights (12VAC30-110).

Exhibit M

Department of Justice Settlement Agreement Requirements

- 7.) Case managers or support coordinators shall complete the level of care tool for individuals requesting DD Waiver services within 60 calendar days of application for individuals expected to present for services within one year.
- 8.) Case managers or support coordinators shall comply with the DD waitlist process and slot assignment process and implement any changes in the processes within 30 calendar days of written notice from the Department.

v. Penalty Clause

If the CSB does not meet requirements as set forth in this Addendum for its quarterly DOJ Settlement Agreement review, the Department may impose a 10 percent reduction of state funds apportioned for CSB administrative expenses. The CSB shall not reduce any services or services costs to accommodate for this penalty reduction.

DRAFT DRAFT

Exhibit M

Department of Justice Settlement Agreement Requirements

PLAN TO MEET COMPLIANCE BY JUNE 30, 2021					PERIOD:													
	MILESTONES	PLAN START	PLAN DURATION	COMPLETE DATE	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20	Dec-20	Jan-21	Feb-21	Mar-21	Apr-21	May-21
					Phase 1	Vendor Contract	4/1/2020	1 Month	4/27/2020									
Tools/Definitions/ Methodology Refined and Delivered to	5/1/2020	1 Month	5/22/2020															
IR/Consultant Review and Approval	5/22/2020	2 Weeks	6/5/2020															
Finalize Tools and Train Reviewers	6/5/2020	4 Weeks	6/30/2020															
Group 1 Reviews Begin (290)	7/1/2020	45 Days	8/15/2020															
Group 2 Reviews (290)	8/15/2020	45 Days	9/30/2020															
Phase 2	Group 1 Data Analysis and Reports Developed and Delivered	8/16/2020	1 Month	9/15/2020														
	Group 1 Technical Assistance Developed and Delivered	7/1/2020	1 Month/ Ongoing	9/15/2020														
	Group 2 Data Analysis and Reports Developed and Delivered	10/1/2020	1 Month	10/31/2020														
	Group 2 Technical Assistance Developed and Delivered	9/16/2020	45 Days/ Ongoing	10/31/2020														
Phase 3	Group 1 Improvements Implemented	9/16/2020	2 Months	11/15/2020														
	Group 2 Improvements Implemented	11/1/2020	2 Months	12/31/2020														
Phase 4	Group 1 Re-Review	11/15/2020	45 Days	12/31/2020														
	Group 2 Re-Review	1/1/2021	45 Days	2/15/2021														
	Group 1 Data Analysis and Report Generation to Evaluate Impact	1/1/2021	1 Month	1/31/2021														
	Group 2 Data Analysis and Report Generation to Evaluate Impact	2/16/2021	1 Month	3/15/2021														
	Group 1 Report Delivered to IR	2/1/2021	N/A	2/1/2021														
	Group 2 Report Delivered to IR	3/16/2021	N/A	3/16/2021														
	Specific Activity																	
	Ongoing Activity																	

DRAFT DRAFT

Virginia's SAMHSA COVID-19 Emergency Grant

Issue:

Board approval for the Fairfax-Falls Church Community Services Board to apply for and accept funding from the Substance Abuse and Mental Health Services (SAMHSA) COVID-19 Emergency Grant funds.

Recommended Motion:

I move that the Board approve applying for and accepting, if awarded, funds up to \$140,000 in FY 2021 for the SAMHSA COVID-19 Emergency Grant.

Background:

Board authorization for the Fairfax-Falls Church Community Services Board (CSB) to apply for and accept up to in the amount of \$139,735 for one year, if awarded a grant, from the Substance Abuse and Mental Health Services (SAMHSA) Grant. A local match is not required.

The SAMHSA COVID-19 Emergency Grant provides funding for direct services for individuals with serious mental illness, serious emotional disturbance, and substance use disorder to address agency-wide gaps made apparent during the pandemic. Funds will be used to contract with the Chris Atwood Foundation for two peer support specialists to assist with the CSB's ongoing outreach efforts and resource navigation services for individuals with substance use disorder (including opioid use disorder) leaving the Adult Detention Center and individuals referred for services who recently overdosed or relapsed because of challenges related to COVID-19.

Funds will be used in order to ensure that continuity of care is provided to clients by peer support to increase the likelihood of success in treatment and to support a wide range of client social needs, such as connection to housing, employment, benefits, healthcare, food, and transportation to appointments to help engage and motivate clients as they receive SUD treatment services.

Timing:

Board action is requested on June 24, 2020. Due to the grant application deadline of May 29, 2020, the application was submitted pending Board approval. This grant project, if awarded, will begin in July 2020. It is anticipated funding will be available through June 2021.

Fiscal Impact:

Grant funding in the amount of \$139,735 for FY 2021 is being requested to contract with the Chris Atwood Foundation to serve approximately 300 individuals in need of SUD treatment services. No Local Cash Match is required. If awarded, funding will provide

contracted peer support services to assist with the CSB's ongoing outreach efforts and resource navigation services for individuals with substance use disorder (including opioid use disorder) leaving the Adult Detention Center and individuals referred for services who recently overdosed or relapsed because of challenges related to COVID-19. The CSB already has evidence-based peer support services in place as part of emergency services, mental health jail diversion, residential treatment, and homeless outreach. The CSB employs 30 peer supporters, serving over 1,200 individuals annually. The CSB also contracts for additional peer support services through local providers, serving more than 2,000 individuals annually. Grant funds will go to contracting because it has proven effective when CSB looks to deliver services to individuals not well connected to traditional treatment. Providers can also hire staff to begin serving targeted individuals more quickly.

Funding for two peer support specialists will encourage treatment engagement and social services support through the establishment of a client relationship built on mutual lived experience with SUD. The critical continuity of care provided to clients by peer support will increase the likelihood of success in treatment. Grant funds will support a wide range of client social needs, such as connection to housing, employment, benefits, healthcare, food, and transportation to appointments, to help engage and motivate clients as they receive SUD treatment services.

This grant does not allow for the recovery of indirect costs. This action does not increase the expenditure level in the Federal-State Grant Fund, as funds are held in reserve for unanticipated grant awards. This funding will be available for a one-year period with no renewal beyond that time. The County will not be responsible to continue this project beyond this time period.

Enclosed Documents:

Attachment A: Grant Summary

Staff:

Daryl Washington, CSB Executive Director

Marissa Farina-Morse, CSB Service Director Diversion First

Grant for Behavioral Health Docket Diversion Programs**Summary of Grant Proposal**

Grant Title:	Grant for Behavioral Health Docket Diversion Programs
Funding Agency:	Substance Abuse and Mental Health Services (SAMHSA)
Applicant:	Fairfax-Falls Church Community Services Board (CSB)
Funding Amount:	State funding of up to \$140,000 for FY 2021
Proposed Use of Funds:	Funding of up to \$140,000 for FY 2021 will be used for two contracted peer support specialists to assist with the Fairfax-Falls Church CSB's ongoing outreach efforts and resource navigation services for individuals with substance use disorder (including opioid use disorder) leaving the Adult Detention Center and individuals referred for services who recently overdosed or relapsed because of challenges related to COVID-19. Grant funds will support a wide range of client social needs, such as connection to housing, employment, benefits, healthcare, food, and transportation to appointments, to help engage and motivate clients as they receive SUD treatment services
Performance Measures:	<p>Fill gaps in services for individuals dealing with SUD</p> <p>Enhance connection to treatment and social supports for individuals with SUD leaving the Adult Detention Center</p> <p>Improve connections to treatment and social supports for individuals with SUD through connection to peer support services</p>
Grant Period:	July 1, 2020 - June 30, 2021 (FY21)

Approval of CSB Board Policy

Recommended Motion:

I move that the Board approve the revised CSB policies as presented

Issue:

Approval to adopt as recommended the CSB Board Policies listed below following CSB Board review.

Background:

As part of the regular CSB Board policy review process, the CSB Board policies listed below were submitted to CSB Board members at the February 2020 CSB Board meeting for review and possible revision. Due to the impact of COVID-19, approval was delayed until such time as meetings resumed. The policies listed below are submitted to the CSB Board for final review and approval.

- 0030 – Priority Access to CSB Services
- 1102 – Ethical and Professional Behavior
- 1103 – Conflict of Interest

Timing:

Immediate

Board Member

Sheila Jonas, Secretary to CSB Board

Enclosed Documents:

- A. 0030 – Priority Access to CSB Services, *due to the numerous revisions, the final draft version with edits accepted is attached.*
- B. 1102 – Ethical and Professional Behavior, *with edits accepted and with edits visible*
- C. 1103 – Conflict of Interest, *with edits accepted and with edits visible*

Policy Number: 0030
Policy Title: Priority Access to CSB
Services
Date Adopted: TBD

Purpose

To ensure that a system is in place for defining who should have priority access to services of the Fairfax-Falls Church Community Services Board (CSB) for individuals with mental health or substance use disorders, developmental disability, or co-occurring disorders.

Policy

It is the policy of the CSB Board to provide guidance in identifying populations who should have priority access to services of the CSB. Defining priority access to services is a necessary and critically important process to ensure compliance with state and federal codes and regulations. Guidelines for assigning priority access need to take into consideration and include those individuals whose needs cannot be addressed except through a public system such as the CSB, which provides and coordinates multiple levels and types of services to help individuals gain a level of independence and self-determination. Effective and efficient use of resources is an inherent requirement for all CSB services.

CSB Priority Populations

In all cases, to be eligible for CSB services, an assessment will need to be done with a CSB clinician.

Individuals and families who have private health insurance coverage and can access non-emergency/non-acute services privately will be asked to seek those services when they are available in the community. In these instances, the CSB Entry and Referral Services staff will assist in identifying resources, linking with potential non-CSB sources of services, and following up with referrals. If similar resources are not available in the community, individuals with private insurance will be screened for priority using the same criteria as is used for those without insurance. It is not necessary for an individual to have a social security number to qualify for CSB Services.

Services to the Whole Community

The following CSB services are provided to all residents of Fairfax County and the cities of Fairfax and Falls Church:

- Wellness, health promotion and prevention services
- Peer support services
- Crisis and emergency services (by phone and walk in at Merrifield 24/7)
- Telephone and walk in screening/assessment at Merrifield (by phone and walk in at Merrifield 24/7)

Services for Mental Health Conditions, Substance Use Disorders and/or Developmental Delays/Disabilities

CSB services are designed for individuals whose condition significantly impacts their ability to manage daily activities of life.

The CSB offers services to individuals with the mental health conditions, developmental disabilities/delays, and substance use disorder. Here is a more specific description of those served by the CSB:

A. Individuals with mental health conditions

Mental health conditions involve a change in thinking, mood and/or behavior. These conditions can affect how we relate to others and make choices.

1. **Adults:** Adults with serious mental illness (SMI). Examples include schizophrenia, major depression, bipolar disorder and borderline personality disorder. The CSB assesses individuals for service based on the severity of the mental health condition and impact on daily life, as opposed to the individual's diagnosis
2. **Children and Adolescents:** Children and adolescents with mental health conditions, behavioral health problems and those children and adolescents who are at risk of serious emotional disturbance. These issues are often significantly disabling compared to the functioning of most youth their age.

B. Individuals with substance use disorders

Substance use disorders occur when the recurrent use of alcohol and/or drugs causes significant functional impairment, such as health problems and failure to meet major responsibilities at work, school or home.

Note: Special priority is afforded to a pregnant woman using substances, anyone who uses drugs by intravenous injection (IV) and any individual who uses any type of opioid, including prescription pain medication.

C. Individuals with Developmental Disabilities or Delays

1. **Adults and Children: Individuals who have mental and physical impairment such as** autism spectrum disorder or intellectual disability, other than a sole diagnosis of mental illness. Individuals must meet the diagnostic criteria for a Developmental Disabilities Medicaid Waiver.

Services for those meeting the criteria below will be provided in the following order of priority access:

1. Individuals who are currently receiving CSB services will continue in service if they continue to meet the criteria for services.
2. Pregnant women and any individual who uses drugs by injection (IV) or who uses any type of opioid, including prescription pain medications.
3. Individuals who meet the criteria for services and who have serious needs that cannot be met elsewhere or who do not have alternative resources such as the ability to access community providers, financial resources, insurance, or family supports.

4. Individuals who have the above resources and who can receive needed services with community partners may be referred to providers in the community based on a screening or assessment by a CSB clinician. This applies to individuals who are seeking services via walk in screening and assessment and/or through Emergency Services, Crisis Care, Fairfax Detoxification, etc. as well as individuals who no longer meet medical necessity criteria for CSB services; and therefore, no longer require a CSB level of care.

References:

- Federal Block Grant
- Guidelines for Assigning Priority Access to CSB Services document approved by the CSB Board on April 23, 2014-do we want to include the other date?

Approved

CSB Board Secretary

Date

Policy Adopted: March 20, 1991
 Revision Adopted: September 29, 1993
 Revision Adopted: July 27, 1994
 Revision Adopted: November 18, 1998
 Revision Adopted: May 23, 2001
 Revision Adopted: December 17, 2014
 Revision Adopted: TBD

Policy Number: 1102
 Policy Title: Ethical and Professional
 Behavior
 Date Adopted: TBD

Purpose

To communicate the basic standards of ethical behavior that the CSB Board are expected to maintain in support of the CSB's mission.

Policy

It is the policy of the CSB Board that:

1. CSB Board members, CSB staff, partners, students, interns, and volunteers perform their designated functions in a manner that reflects the highest standards of ethical behavior by adhering to relevant:
 - Federal, State, County laws and regulations
 - In keeping with the Commonwealth of Virginia's Department of Behavioral Health, and Developmental Services Human Rights Regulation.
2. The Executive Director shall ensure that the CSB Board is offered training on ethical issues, including County personnel practices and matters exempted from release by Virginia Freedom of Information Act. This will include procedures for reporting Codes of Ethics violations and non-retaliation against any person because they complied with this policy.
3. The Executive Director shall ensure that a mechanism is in place for handling ethical issues as they arise.

Approved _____
 CSB Board Secretary

 Date

References:

- [Fairfax County Code of Ethics and Standards of Conduct – Volunteers](#)
- [Commonwealth of Virginia, Department of Behavioral Health and Developmental Services \(DBHDS\), 12VAC 35-15-130, Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by DBHDS](#)

- CSB Board Member Training: *Corporate Compliance and Ethics (ONL-RELIAS-REL-ALL-0-CCETH)*

Policy Adopted: April 28, 2004
Revision Adopted: January 28, 2015
Revision Adopted: TBD

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ATTACHMENT B

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Policy Number: 1102
Policy Title: Ethical and Professional Behavior
Date Adopted: TBD

Purpose

To communicate the basic standards of ethical behavior that the CSB Board are expected to maintain in support of the CSB’s mission.

Policy

It is the policy of the CSB Board that:

1. CSB Board members, CSB staff, partners, students, interns, and volunteers perform their designated functions in a manner that reflects the highest standards of ethical behavior by adhering to relevant:
 - Federal, State, County laws and regulations
 - In keeping with the Commonwealth of Virginia’s Department of Behavioral Health, and Developmental Services Human Rights Regulation.
2. The Executive Director shall ensure that the CSB Board is offered training on ethical issues, including County personnel practices and matters exempted from release by Virginia Freedom of Information Act. This will include procedures for reporting Codes of Ethics violations and non-retaliation against any person because they complied with this policy.
3. The Executive Director shall ensure that a mechanism is in place for handling ethical issues as they arise.

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Approved _____ Date _____
CSB Board Secretary

References:

- Fairfax County Code of Ethics and Standards of Conduct – Volunteers
- Commonwealth of Virginia, Department of Behavioral Health and Developmental Services (DBHDS), 12VAC 35-15-130, Rules and Regulations to Assure the Rights of Individuals Receiving Services from Providers Licensed, Funded or Operated by DBHDS
- CSB Board Member Training: *Corporate Compliance and Ethics (ONL-RELIAS-REL-ALL-0-CCETH)*

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Policy Adopted: April 28, 2004
Revision Adopted: January 28, 2015
Revision Adopted: TBD

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ATTACHMENT B

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Policy Number: 1103
 Policy Title: Conflict of Interest
 Date Adopted: TBD

Purpose

To provide guidance to members of the Board regarding conflicts that may arise related to contractual matters and Board transactions.

Policy

Each member of the CSB Board shall be responsible for meeting the requirements of the State and Local Government Conflict of Interests Act (Virginia Code Section 2.2-3100 *et seq.* as amended).

In accordance with the Principle Guidance for the Fairfax County Code of Ethics, Board members are encouraged to avoid the appearance of impropriety in the course of their participation in Board responsibilities. In some instances where a Board member has a personal or professional interest in or affiliation to a matter under consideration by the Board that does not rise to the level of a prohibited conflict, the member may wish to take other steps to avoid or ameliorate the appearance of impropriety through recusal, abstention, disclosure, or other similar action. Consultation with the Office of the County Attorney will be sought in circumstances where conflict is not clear.

Approved _____

CSB Board Secretary

_____ Date

Reference: [Virginia Code Section 2.2-3100 et seq.](#)
[Fairfax County Code of Ethics and Standards of Conduct – Volunteers](#)

Policy Adopted: November 1981
 Revision Adopted: August 24, 1994
 Policy Readopted: April 23, 1997
 Policy Revised: March 29, 2000
 Policy Revised: May 25, 2005
 Revision Adopted: January 28, 2015
 Revision Adopted: TBD

ATTACHMENT C

Policy Number: 1103
Policy Title: Conflict of Interest
Date Adopted: TBD

Purpose

To provide guidance to members of the Board regarding conflicts that may arise related to contractual matters and Board transactions.

Policy

Each member of the CSB Board shall be responsible for meeting the requirements of the State and Local Government Conflict of Interests Act (Virginia Code Section 2.2-3100 *et seq.* as amended).

In accordance with the Principle Guidance for the Fairfax County Code of Ethics, Board members are encouraged to avoid the appearance of impropriety in the course of their participation in Board responsibilities. In some instances where a Board member has a personal or professional interest in or affiliation to a matter under consideration by the Board that does not rise to the level of a prohibited conflict, the member may wish to take other steps to avoid or ameliorate the appearance of impropriety through recusal, abstention, disclosure, or other similar action. Consultation with the Office of the County Attorney will be sought in circumstances where there may be a possible conflict.

Approved

CSB Board Secretary

Date

Reference: Virginia Code Section 2.2-3100 *et seq.*

Fairfax County Code of Ethics and Standards of Conduct - Volunteers

Policy Adopted: November 1981
Revision Adopted: August 24, 1994
Policy Readopted: April 23, 1997
Policy Revised: March 29, 2000
Policy Revised: May 25, 2005
Revision Adopted: January 28, 2015
Revision Adopted: TBD

- Deleted: individual
- Deleted: and its staff
- Commented [BL2]: Is this ever given to the board? I don't see it on the index to the new member handbook. I don't think I've ever reviewed it.
- Deleted: which includes filing a financial disclosure form
- Commented [BL5]: What is this "Principle Guidance"? Again, has the board received this?
- Commented [BE6]: Bd Member: Although Board members "are encouraged to avoid the appearance of impropriety ... and where they have a personal or professional interest in or affiliation to a matter under consideration by the Board that does not rise to the level of a prohibited conflict", the definition of "personal or professional interest in or affiliation" and "rise to the level of a prohibited conflict" is unclear, to me, and I'm not sure exactly what constitutes this requirement. I know it would be difficult to include all the possible examples of conflicts, but perhaps the statement could be clarified, or refer to the regulation(s) covering this area?
- Deleted: Board members may wish to consult with CSB counsel if they are uncertain about their responsibilities.

Code of Virginia

State and Local Government Conflict of Interests Act

§ 2.2-3100. Policy; application; construction

The General Assembly, recognizing that our system of representative government is dependent in part upon (i) citizen legislative members representing fully the public in the legislative process and (ii) its citizens maintaining the highest trust in their public officers and employees, finds and declares that the citizens are entitled to be assured that the judgment of public officers and employees will be guided by a law that defines and prohibits inappropriate conflicts and requires disclosure of economic interests. To that end and for the purpose of establishing a single body of law applicable to all state and local government officers and employees on the subject of conflict of interests, the General Assembly enacts this State and Local Government Conflict of Interests Act so that the standards of conduct for such officers and employees may be uniform throughout the Commonwealth.

This chapter shall supersede all general and special acts and charter provisions which purport to deal with matters covered by this chapter except that the provisions of §§ 15.2-852, 15.2-2287, 15.2-2287.1, and 15.2-2289 and ordinances adopted pursuant thereto shall remain in force and effect. The provisions of this chapter shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title and ordinances adopted pursuant to § 2.2-3104.2 regulating receipt of gifts.

The provisions of this chapter do not preclude prosecution for any violation of any criminal law of the Commonwealth, including Articles 2 (Bribery and Related Offenses, § 18.2-438 et seq.) and 3 (Bribery of Public Servants and Party Officials, § 18.2-446 et seq.) of Chapter 10 of Title 18.2, and do not constitute a defense to any prosecution for such a violation.

This chapter shall be liberally construed to accomplish its purpose.

1987, Sp. Sess., c. 1, § 2.1-639.1; 1990, c. 672; 2001, c. 844; 2003, c. 694; 2008, c. 532; 2014, cc. 792, 804.

§ 2.2-3100.1. Copy of chapter; review by officers and employees

Any person required to file a disclosure statement of personal interests pursuant to subsections A or B of § 2.2-3114, subsections A or B of § 2.2-3115 or § 2.2-3116 shall be furnished by the public body's administrator a copy of this chapter within two weeks following the person's election, reelection, employment, appointment or reappointment.

All officers and employees shall read and familiarize themselves with the provisions of this chapter.

2004, cc. 134, 392.

§ 2.2-3101. Definitions

As used in this chapter, unless the context requires a different meaning:

"Advisory agency" means any board, commission, committee or post which does not exercise any sovereign power or duty, but is appointed by a governmental agency or officer or is created by law for the purpose of making studies or recommendations, or advising or consulting with a governmental agency.

"Affiliated business entity relationship" means a relationship, other than a parent-subsidary relationship, that exists when (i) one business entity has a controlling ownership interest in the other business entity, (ii) a controlling owner in one entity is also a controlling owner in the other entity, or (iii) there is shared management or control between the business entities. Factors that may be considered in determining the existence of an affiliated business entity relationship include that the same person or substantially the same person owns or manages the two entities, there are common or commingled funds or assets, the business entities share the use of the same offices or employees, or otherwise share activities, resources or personnel on a regular basis, or there is otherwise a close working relationship between the entities.

"Business" means a corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, trust or foundation, or any other individual or entity carrying on a business or profession, whether or not for profit.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. The candidate shall become subject to the provisions of this chapter upon the filing of a statement of qualification pursuant to § 24.2-501. The State Board of Elections or general registrar shall notify each such candidate of the provisions of this chapter. Notification made by the general registrar shall consist of information developed by the State Board of Elections.

"Contract" means any agreement to which a governmental agency is a party, or any agreement on behalf of a governmental agency that involves the payment of money appropriated by the General Assembly or a political subdivision, whether or not such agreement is executed in the name of the Commonwealth, or some political subdivision thereof. "Contract" includes a subcontract only when the contract of which it is a part is with the officer's or employee's own governmental agency.

"Council" means the Virginia Conflict of Interest and Ethics Advisory Council established in § 30-355.

"Employee" means all persons employed by a governmental or advisory agency, unless otherwise limited by the context of its use.

"Financial institution" means any bank, trust company, savings institution, industrial loan association, consumer finance company, credit union, broker-dealer as defined in subsection A of § 13.1-501, or investment company or advisor registered under the federal Investment Advisors Act or Investment Company Act of 1940.

"Gift" means any gratuity, favor, discount, entertainment, hospitality, loan, forbearance, or other item having monetary value. It includes services as well as gifts of transportation, local travel, lodgings and meals, whether provided in-kind, by purchase of a ticket, payment in advance or reimbursement after the expense has been incurred. "Gift" does not include (i) any offer of a ticket, coupon, or other admission or pass unless the ticket, coupon, admission, or pass is used; (ii) honorary degrees; (iii) any athletic, merit, or need-based scholarship or any other financial aid awarded by a public or private school, institution of higher education, or other educational program pursuant to such school, institution, or program's financial aid standards and procedures applicable to the general public; (iv) a campaign contribution properly received and reported pursuant to Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2; (v) any gift related to the

private profession or occupation or volunteer service of an officer or employee or of a member of his immediate family; (vi) food or beverages consumed while attending an event at which the filer is performing official duties related to his public service; (vii) food and beverages received at or registration or attendance fees waived for any event at which the filer is a featured speaker, presenter, or lecturer; (viii) unsolicited awards of appreciation or recognition in the form of a plaque, trophy, wall memento, or similar item that is given in recognition of public, civic, charitable, or professional service; (ix) a devise or inheritance; (x) travel disclosed pursuant to the Campaign Finance Disclosure Act (§ 24.2-945 et seq.); (xi) travel paid for or provided by the government of the United States, any of its territories, or any state or any political subdivision of such state; (xii) travel provided to facilitate attendance by a legislator at a regular or special session of the General Assembly, a meeting of a legislative committee or commission, or a national conference where attendance is approved by the House Committee on Rules or its Chairman or the Senate Committee on Rules or its Chairman; (xiii) travel related to an official meeting of, or any meal provided for attendance at such meeting by, the Commonwealth, its political subdivisions, or any board, commission, authority, or other entity, or any charitable organization established pursuant to § 501(c)(3) of the Internal Revenue Code affiliated with such entity, to which such person has been appointed or elected or is a member by virtue of his office or employment; (xiv) gifts with a value of less than \$20; (xv) attendance at a reception or similar function where food, such as hors d'oeuvres, and beverages that can be conveniently consumed by a person while standing or walking are offered; or (xvi) gifts from relatives or personal friends. For the purpose of this definition, "relative" means the donee's spouse, child, uncle, aunt, niece, nephew, or first cousin; a person to whom the donee is engaged to be married; the donee's or his spouse's parent, grandparent, grandchild, brother, sister, step-parent, step-grandparent, step-grandchild, step-brother, or step-sister; or the donee's brother's or sister's spouse or the donee's son-in-law or daughter-in-law. For the purpose of this definition, "personal friend" does not include any person that the filer knows or has reason to know is (a) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2; (b) a lobbyist's principal as defined in § 2.2-419; (c) for an officer or employee of a local governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the local agency of which he is an officer or an employee; or (d) for an officer or employee of a state governmental or advisory agency, a person, organization, or business who is a party to or is seeking to become a party to a contract with the Commonwealth. For purposes of this definition, "person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Governmental agency" means each component part of the legislative, executive or judicial branches of state and local government, including each office, department, authority, post, commission, committee, and each institution or board created by law to exercise some regulatory or sovereign power or duty as distinguished from purely advisory powers or duties. Corporations organized or controlled by the Virginia Retirement System are "governmental agencies" for purposes of this chapter.

"Immediate family" means (i) a spouse and (ii) any other person who resides in the same household as the officer or employee and who is a dependent of the officer or employee.

"Officer" means any person appointed or elected to any governmental or advisory agency including local school boards, whether or not he receives compensation or other emolument of office. Unless the context requires otherwise, "officer" includes members of the judiciary.

"Parent-subsidary relationship" means a relationship that exists when one corporation directly or indirectly owns shares possessing more than 50 percent of the voting power of another corporation.

"Personal interest" means a financial benefit or liability accruing to an officer or employee or to a member of his immediate family. Such interest shall exist by reason of (i) ownership in a business if the ownership interest exceeds three percent of the total equity of the business; (ii) annual income that exceeds, or may reasonably be anticipated to exceed, \$5,000 from ownership in real or personal property or a business; (iii) salary, other compensation, fringe benefits, or benefits from the use of property, or any combination thereof, paid or provided by a business or governmental agency that exceeds, or may reasonably be anticipated to exceed, \$5,000 annually; (iv) ownership of real or personal property if the interest exceeds \$5,000 in value and excluding ownership in a business, income, or salary, other compensation, fringe benefits or benefits from the use of property; (v) personal liability incurred or assumed on behalf of a business if the liability exceeds three percent of the asset value of the business; or (vi) an option for ownership of a business or real or personal property if the ownership interest will consist of clause (i) or (iv).

"Personal interest in a contract" means a personal interest that an officer or employee has in a contract with a governmental agency, whether due to his being a party to the contract or due to a personal interest in a business that is a party to the contract.

"Personal interest in a transaction" means a personal interest of an officer or employee in any matter considered by his agency. Such personal interest exists when an officer or employee or a member of his immediate family has a personal interest in property or a business or governmental agency, or represents or provides services to any individual or business and such property, business or represented or served individual or business (i) is the subject of the transaction or (ii) may realize a reasonably foreseeable direct or indirect benefit or detriment as a result of the action of the agency considering the transaction. Notwithstanding the above, such personal interest in a transaction shall not be deemed to exist where (a) an elected member of a local governing body serves without remuneration as a member of the board of trustees of a not-for-profit entity and such elected member or member of his immediate family has no personal interest related to the not-for-profit entity or (b) an officer, employee, or elected member of a local governing body is appointed by such local governing body to serve on a governmental agency, or an officer, employee, or elected member of a separate local governmental agency formed by a local governing body is appointed to serve on a governmental agency, and the personal interest in the transaction of the governmental agency is the result of the salary, other compensation, fringe benefits, or benefits provided by the local governing body or the separate governmental agency to the officer, employee, elected member, or member of his immediate family.

"State and local government officers and employees" shall not include members of the General Assembly.

"State filer" means those officers and employees required to file a disclosure statement of their personal interests pursuant to subsection A or B of § [2.2-3114](#).

"Transaction" means any matter considered by any governmental or advisory agency, whether in a committee, subcommittee, or other entity of that agency or before the agency itself, on which official action is taken or contemplated.

1987, Sp. Sess., c. 1, § 2.1-639.2; 1988, c. 536; 1992, c. 865; 1993, c. 303; 1994, cc. 74, 724; 1995, c. 495; 1996, c. 77; 1997, c. 641; 2001, c. 844; 2003, c. 694; 2004, cc. 134, 392; 2012, cc. 345, 771; 2013, c. 475; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832.

§ 2.2-3102. Application

This article applies to generally prohibited conduct that shall be unlawful and to state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.3; 2001, c. 844.

§ 2.2-3103. Prohibited conduct

No officer or employee of a state or local governmental or advisory agency shall:

1. Solicit or accept money or other thing of value for services performed within the scope of his official duties, except the compensation, expenses or other remuneration paid by the agency of which he is an officer or employee. This prohibition shall not apply to the acceptance of special benefits that may be authorized by law;
2. Offer or accept any money or other thing of value for or in consideration of obtaining employment, appointment, or promotion of any person with any governmental or advisory agency;
3. Offer or accept any money or other thing of value for or in consideration of the use of his public position to obtain a contract for any person or business with any governmental or advisory agency;
4. Use for his own economic benefit or that of another party confidential information that he has acquired by reason of his public position and which is not available to the public;
5. Accept any money, loan, gift, favor, service, or business or professional opportunity that reasonably tends to influence him in the performance of his official duties. This subdivision shall not apply to any political contribution actually used for political campaign or constituent service purposes and reported as required by Chapter 9.3 (§ 24.2-945 et seq.) of Title 24.2;
6. Accept any business or professional opportunity when he knows that there is a reasonable likelihood that the opportunity is being afforded him to influence him in the performance of his official duties;
7. Accept any honoraria for any appearance, speech, or article in which the officer or employee provides expertise or opinions related to the performance of his official duties. The term "honoraria" shall not include any payment for or reimbursement to such person for his actual travel, lodging, or subsistence expenses incurred in connection with such appearance, speech, or article or in the alternative a payment of money or anything of value not in excess of the per diem deduction allowable under § 162 of the Internal Revenue Code, as amended from time to time. The prohibition in this subdivision shall apply only to the Governor, Lieutenant Governor, Attorney General, Governor's Secretaries, and heads of departments of state government;
8. Accept a gift from a person who has interests that may be substantially affected by the performance of the officer's or employee's official duties under circumstances where the timing and nature of the gift would cause a reasonable person to question the officer's or employee's impartiality in the matter affecting the donor. Violations of this subdivision shall not be subject to criminal law penalties;

9. Accept gifts from sources on a basis so frequent as to raise an appearance of the use of his public office for private gain. Violations of this subdivision shall not be subject to criminal law penalties; or

10. Use his public position to retaliate or threaten to retaliate against any person for expressing views on matters of public concern or for exercising any right that is otherwise protected by law, provided, however, that this subdivision shall not restrict the authority of any public employer to govern conduct of its employees, and to take disciplinary action, in accordance with applicable law, and provided further that this subdivision shall not limit the authority of a constitutional officer to discipline or discharge an employee with or without cause.

1987, Sp. Sess., c. 1, § 2.1-639.4; 1994, cc. [663](#), [815](#), [851](#); 2001, c. [844](#); 2006, cc. [787](#), [892](#); 2015, c. [574](#).

§ 2.2-3103.1. Certain gifts prohibited

A. For purposes of this section:

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § [2.2-3117](#) or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ [2.2-418](#) et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § [2.2-419](#); or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § [2.2-3117](#) or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ [2.2-418](#) et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § [2.2-419](#); or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate

or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship.

Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file the disclosure form prescribed in § 2.2-3117 or 30-111.

G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive gifts of travel, including travel-related transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or candidate has submitted a request for approval of such travel to the Council and has received the approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

H. During the pendency of a civil action in any state or federal court to which the Commonwealth is a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any person that he knows or has reason to know is a person, organization, or business that is a party to such civil action. A person, organization, or business that is a party to such civil action shall not knowingly give any gift to the Governor or the Attorney General or any of their employees who are subject to the provisions of this chapter.

I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest whole dollar.

J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia,

judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any district court. However, nothing in this subsection shall be construed to authorize the acceptance of any gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

2014, cc. [792](#), [804](#);2015, cc. [763](#), [777](#);2017, cc. [829](#), [832](#).

§ 2.2-3103.2. Return of gifts

No person shall be in violation of any provision of this chapter prohibiting the acceptance of a gift if (i) the gift is not used by such person and the gift or its equivalent in money is returned to the donor or delivered to a charitable organization within a reasonable period of time upon the discovery of the value of the gift and is not claimed as a charitable contribution for federal income tax purposes or (ii) consideration is given by the donee to the donor for the value of the gift within a reasonable period of time upon the discovery of the value of the gift provided that such consideration reduces the value of the gift to an amount not in excess of \$100 as provided in subsection B or C of § [2.2-3103.1](#).

2015, cc. [763](#), [777](#).

§ 2.2-3104. Prohibited conduct for certain officers and employees of state government

For one year after the termination of public employment or service, no state officer or employee shall, before the agency of which he was an officer or employee, represent a client or act in a representative capacity on behalf of any person or group, for compensation, on matters related to legislation, executive orders, or regulations promulgated by the agency of which he was an officer or employee. This prohibition shall be in addition to the prohibitions contained in § [2.2-3103](#).

For the purposes of this section, "state officer or employee" shall mean (i) the Governor, Lieutenant Governor, Attorney General, and officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not, who are regularly employed on a full-time salaried basis; those officers and employees of executive branch agencies who report directly to the agency head; and those at the level immediately below those who report directly to the agency head and are at a payband 6 or higher and (ii) the officers and professional employees of the legislative branch designated by the joint rules committee of the General Assembly. For the purposes of this section, the General Assembly and the legislative branch agencies shall be deemed one agency.

To the extent this prohibition applies to the Governor's Secretaries, "agency" means all agencies assigned to the Secretary by law or by executive order of the Governor.

Any person subject to the provisions of this section may apply to the Council or Attorney General, as provided in § [2.2-3121](#) or [2.2-3126](#), for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

1994, cc. [727](#), [776](#), § 2.1-639.4:1; 2001, c. [844](#);2013, c. [648](#);2014, cc. [792](#), [804](#);2015, cc. [763](#), [777](#).

§ 2.2-3104.01. Prohibited conduct; bids or proposals under the Virginia Public Procurement Act, Public-Private Transportation Act, and Public-Private Education Facilities and Infrastructure Act; loans or grants from the Commonwealth's Development Opportunity Fund

A. Neither the Governor, his political action committee, or the Governor's Secretaries, if the Secretary is responsible to the Governor for an executive branch agency with jurisdiction over the

matters at issue, shall knowingly solicit or accept a contribution, gift, or other item with a value greater than \$50 from any bidder, offeror, or private entity, or from an officer or director of such bidder, offeror, or private entity, who has submitted a bid or proposal to an executive branch agency that is directly responsible to the Governor pursuant to the Virginia Public Procurement Act (§ 2.2-4300 et seq.), the Public-Private Transportation Act of 1995 (§ 33.2-1800 et seq.), or the Public-Private Education Facilities and Infrastructure Act of 2002 (§ 56-575.1 et seq.)(i) during the period between the submission of the bid and the award of the public contract under the Virginia Public Procurement Act or (ii) following the submission of a proposal under the Public-Private Transportation Act of 1995 or the Public-Private Education Facilities and Infrastructure Act of 2002 until the execution of a comprehensive agreement thereunder.

B. The provisions of this section shall apply only for public contracts, proposals, or comprehensive agreements where the stated or expected value of the contract is \$5 million or more. The provisions of this section shall not apply to contracts awarded as the result of competitive sealed bidding as set forth in § 2.2-4302.1.

C. Any person who knowingly violates this section shall be subject to a civil penalty of \$500 or up to two times the amount of the contribution or gift, whichever is greater, and the contribution, gift, or other item shall be returned to the donor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund and shall be used exclusively to fund the Council.

2010, c. 732;2011, c. 624;2013, c. 583;2015, cc. 763, 777;2016, c. 641.

§ 2.2-3104.02. Prohibited conduct for constitutional officers

In addition to the prohibitions contained in § 2.2-3103, no constitutional officer shall, during the one year after the termination of his public service, act in a representative capacity on behalf of any person or group, for compensation, on any matter before the agency of which he was an officer.

The provisions of this section shall not apply to any attorney for the Commonwealth.

Any person subject to the provisions of this section may apply to the attorney for the Commonwealth for the jurisdiction where such person was elected as provided in § 2.2-3126, for an advisory opinion as to the application of the restriction imposed by this section on any post-public employment position or opportunity.

2011, c. 591.

§ 2.2-3104.1. Exclusion of certain awards from scope of chapter

The provisions of this chapter shall not be construed to prohibit or apply to the acceptance by (i) any employee of a local government, or (ii) a teacher or other employee of a local school board of an award or payment in honor of meritorious or exceptional services performed by the teacher or employee and made by an organization exempt from federal income taxation pursuant to the provisions of Section 501(c)(3) of the Internal Revenue Code.

2001, c. 48, § 2.1-639.4:2; 2008, cc. 478, 497.

§ 2.2-3104.2. Ordinance regulating receipt of gifts

The governing body of any county, city, or town may adopt an ordinance setting a monetary limit

on the acceptance of any gift by the officers, appointees or employees of the county, city or town and requiring the disclosure by such officers, appointees or employees of the receipt of any gift.

2003, c. 694.

§ 2.2-3105. Application

This article proscribes certain conduct relating to contracts by state and local government officers and employees. The provisions of this article shall be supplemented but not superseded by the provisions on ethics in public contracting in Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title.

1987, Sp. Sess., c. 1, § 2.1-639.5; 2001, c. 844; 2003, c. 694.

§ 2.2-3106. Prohibited contracts by officers and employees of state government and Eastern Virginia Medical School

A. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with the governmental agency of which he is an officer or employee, other than his own contract of employment.

B. No officer or employee of any governmental agency of state government or Eastern Virginia Medical School shall have a personal interest in a contract with any other governmental agency of state government unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over the employment or the employment activities of the member of his immediate family and the employee is not in a position to influence those activities;
2. The personal interest of an officer or employee of a public institution of higher education or the Eastern Virginia Medical School in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are engaged in teaching, research or administrative support positions at the educational institution or the Eastern Virginia Medical School, (ii) the governing board of the educational institution finds that it is in the best interests of the institution or the Eastern Virginia Medical School and the Commonwealth for such dual employment to exist, and (iii) after such finding, the governing board of the educational institution or the Eastern Virginia Medical School ensures that the officer or employee, or the immediate family member, does not have sole authority to supervise, evaluate or make personnel decisions regarding the other;
3. An officer's or employee's personal interest in a contract of employment with any other governmental agency of state government;
4. Contracts for the sale by a governmental agency or the Eastern Virginia Medical School of services or goods at uniform prices available to the general public;

5. An employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a publisher or wholesaler of textbooks or other educational materials for students, which accrues to him solely because he has authored or otherwise created such textbooks or materials;
6. An employee's personal interest in a contract with his or her employing public institution of higher education to acquire the collections or scholarly works owned by the employee, including manuscripts, musical scores, poetry, paintings, books or other materials, writings, or papers of an academic, research, or cultural value to the institution, provided the president of the institution approves the acquisition of such collections or scholarly works as being in the best interests of the institution's public mission of service, research, or education;
7. Subject to approval by the board of visitors, an employee's personal interest in a contract between the Eastern Virginia Medical School or a public institution of higher education in the Commonwealth that operates a school of medicine or dentistry and a not-for-profit nonstock corporation that operates a clinical practice within such public institution of higher education or the Eastern Virginia Medical School and of which such employee is a member or employee;
8. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract for research and development or commercialization of intellectual property between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the employee's personal interest has been disclosed to and approved by such public institution of higher education or the Eastern Virginia Medical School prior to the time at which the contract is entered into; (ii) the employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the institution has established a formal policy regarding such contracts, approved by the State Council of Higher Education or, in the case of the Eastern Virginia Medical School, a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its board of visitors; and (iv) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth; or
9. Subject to approval by the relevant board of visitors, an employee's personal interest in a contract between a public institution of higher education in the Commonwealth or the Eastern Virginia Medical School and a business in which the employee has a personal interest, if (i) the personal interest has been disclosed to the institution or the Eastern Virginia Medical School prior to the time the contract is entered into; (ii) the employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the employee does not participate in the institution's or the Eastern Virginia Medical School's decision to contract; (iv) the president of the institution or the Eastern Virginia Medical School finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by the institution's medical center or the Eastern Virginia

Medical School, its affiliated teaching hospitals and other organizations necessary for the fulfillment of its mission, including the acquisition of drugs, therapies and medical technologies; and (v) no later than December 31 of each year, the institution or the Eastern Virginia Medical School files an annual report with the Secretary of the Commonwealth disclosing each open contract entered subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, and any other information requested by the Secretary of the Commonwealth.

D. Notwithstanding the provisions of subdivisions C 8 and C 9, if the research and development or commercialization of intellectual property or the employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interests, the policies established by the Eastern Virginia Medical School pursuant to such federal requirements shall constitute compliance with subdivisions C 8 and C 9, upon notification by the Eastern Virginia Medical School to the Secretary of the Commonwealth by January 31 of each year of evidence of their compliance with such federal policies and regulations.

E. The board of visitors may delegate the authority granted under subdivision C 8 to the president of the institution. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision C 8. In those instances where the board has delegated such authority, on or before December 1 of each year, the president of the relevant institution shall file a report with the relevant board of visitors disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the institution's or the Eastern Virginia Medical School's employee responsible for administering each contract, the details of the institution's or the Eastern Virginia Medical School's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the board of visitors.

1987, Sp. Sess., c. 1, § 2.1-639.6; 1989, c. 74; 1991, c. 470; 1993, c. 876; 1995, c. 403; 1998, c. 838; 2001, c. 844; 2002, cc. 87, 478; 2003, c. 646; 2006, c. 839; 2013, c. 583; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3107. Prohibited contracts by members of county boards of supervisors, city councils and town councils

A. No person elected or appointed as a member of the governing body of a county, city or town shall have a personal interest in (i) any contract with his governing body, or (ii) any contract with any governmental agency that is a component part of his local government and which is subject to the ultimate control of the governing body of which he is a member, or (iii) any contract other than a contract of employment with any other governmental agency if such person's governing body appoints a majority of the members of the governing body of the second governmental agency.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided (i) the officer or employee was employed by the governmental agency prior to July 1, 1983, in accordance with the provisions of the former Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) of Title 2.1 as it existed on June 30, 1983, or (ii) the employment first began prior to the member becoming a member of the governing body;
2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or
3. A contract awarded to a member of a governing body as a result of competitive sealed bidding where the governing body has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the governing body. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the governing body, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1987, Sp. Sess., c. 1, § 2.1-639.7; 2001, c. 844.

§ 2.2-3108. Prohibited contracts by members of school boards

A. No person elected or appointed as a member of a local school board shall have a personal interest in (i) any contract with his school board or (ii) any contract with any governmental agency that is subject to the ultimate control of the school board of which he is a member.

B. The provisions of this section shall not apply to:

1. A member's personal interest in a contract of employment provided the employment first began prior to the member becoming a member of the school board;
2. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the public; or
3. A contract awarded to a member of a school board as a result of competitive sealed bidding where the school board has established a need for the same or substantially similar goods through purchases prior to the election or appointment of the member to serve on the school board. However, the member shall have no involvement in the preparation of the specifications for such contract, and the remaining members of the school board, by written resolution, shall state that it is in the public interest for the member to bid on such contract.

1996, c. 548, § 2.1-639.7:1; 2001, c. 844.

§ 2.2-3109. Prohibited contracts by other officers and employees of local governmental agencies

A. No other officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with the agency of which he is an officer or employee other than his own contract of employment.

B. No officer or employee of any governmental agency of local government, including a hospital authority as defined in § 2.2-3109.1, shall have a personal interest in a contract with any other governmental agency that is a component of the government of his county, city or town unless such contract is (i) awarded as a result of competitive sealed bidding or competitive negotiation as set forth in § 2.2-4302.1 or 2.2-4302.2 or is awarded as a result of a procedure embodying competitive principles as authorized by subdivision A 10 or 11 of § 2.2-4343 or (ii) is awarded after a finding, in writing, by the administrative head of the governmental agency that

competitive bidding or negotiation is contrary to the best interest of the public.

C. The provisions of this section shall not apply to:

1. An employee's personal interest in additional contracts for goods or services, or contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided the employee does not exercise any control over (i) the employment or the employment activities of the member of his immediate family and (ii) the employee is not in a position to influence those activities or the award of the contract for goods or services;
2. An officer's or employee's personal interest in a contract of employment with any other governmental agency that is a component part of the government of his county, city or town;
3. Contracts for the sale by a governmental agency of services or goods at uniform prices available to the general public;
4. Members of local governing bodies who are subject to § 2.2-3107;
5. Members of local school boards who are subject to § 2.2-3108; or
6. Any ownership or financial interest of members of the governing body, administrators, and other personnel serving in a public charter school in renovating, lending, granting, or leasing public charter school facilities, as the case may be, provided such interest has been disclosed in the public charter school application as required by § 22.1-212.8.

1987, Sp. Sess., c. 1, § 2.1-639.8; 1996, c. 548; 2001, c. 844; 2004, c. 530; 2009, c. 862; 2013, c. 583; 2015, c. 699.

§ 2.2-3109.1. Prohibited contracts; additional exclusions for contracts by officers and employees of hospital authorities

A. As used in this section, "hospital authority" means a hospital authority established pursuant to Chapter 53 (§ 15.2-5300 et seq.) of Title 15.2 or an Act of Assembly.

B. The provisions of § 2.2-3109 shall not apply to:

1. The personal interest of an officer or employee of a hospital authority in additional contracts of employment with his own governmental agency that accrue to him because of a member of his immediate family, provided (i) the officer or employee and the immediate family member are licensed members of the medical profession or hold administrative support positions at the hospital authority, (ii) the governing board of the hospital authority finds that it is in the best interests of the hospital authority and the county, city, or town for such dual employment to exist, and (iii) after such finding, the governing board of the hospital authority ensures that neither the officer or employee, nor the immediate family member, has sole authority to supervise, evaluate, or make personnel decisions regarding the other;
2. Subject to approval by the governing board of the hospital authority, an officer or employee's personal interest in a contract between his hospital authority and a professional entity that operates a clinical practice at any medical facilities of such other hospital authority and of which such officer or employee is a member or employee;
3. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract for research and development or commercialization of intellectual property

between the hospital authority and a business in which the employee has a personal interest, provided (i) the officer or employee's personal interest has been disclosed to and approved by the hospital authority prior to the time at which the contract is entered into; (ii) the officer or employee promptly files a disclosure statement pursuant to § 2.2-3117 and thereafter files such statement annually on or before January 15; (iii) the local hospital authority has established a formal policy regarding such contracts in conformity with any applicable federal regulations that has been approved by its governing body; and (iv) no later than December 31 of each year, the local hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of such hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council; or

4. Subject to approval by the relevant governing body, an officer or employee's personal interest in a contract between the hospital authority and a business in which the officer or employee has a personal interest, provided (i) the personal interest has been disclosed to the hospital authority prior to the time the contract is entered into; (ii) the officer or employee files a disclosure statement pursuant to § 2.2-3117 and thereafter annually on or before January 15; (iii) the officer or employee does not participate in the hospital authority's decision to contract; (iv) the president or chief executive officer of the hospital authority finds and certifies in writing that the contract is for goods and services needed for quality patient care, including related medical education or research, by any of the hospital authority's medical facilities or any of its affiliated organizations, or is otherwise necessary for the fulfillment of its mission, including but not limited to the acquisition of drugs, therapies, and medical technologies; and (v) no later than December 31 of each year, the hospital authority files an annual report with the Virginia Conflict of Interest and Ethics Advisory Council disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, and any other information requested by the Virginia Conflict of Interest and Ethics Advisory Council.

C. Notwithstanding the provisions of subdivisions B 3 and B 4, if the research and development or commercialization of intellectual property or the officer or employee's personal interest in a contract with a business is subject to policies and regulations governing conflicts of interest promulgated by any agency of the United States government, including the adoption of policies requiring the disclosure and management of such conflicts of interest, the policies established by the hospital authority pursuant to such federal requirements shall constitute compliance with subdivisions B 3 and B 4, upon notification by the hospital authority to the Virginia Conflict of Interest and Ethics Advisory Council by January 31 of each year of evidence of its compliance with such federal policies and regulations.

D. The governing body may delegate the authority granted under subdivision B 2 to the president or chief executive officer of hospital authority. If the board elects to delegate such authority, the board shall include this delegation of authority in the formal policy required by clause (iii) of subdivision B 3. In those instances where the board has delegated such authority, on or before December 1 of each year, the president or chief executive officer of the hospital authority shall

file a report with the relevant governing body disclosing each open contract entered into subject to this provision, the names of the parties to each contract, the date each contract was executed and its term, the subject of each contractual arrangement, the nature of the conflict of interest, the hospital authority's employee responsible for administering each contract, the details of the hospital authority's commitment or investment of resources or finances for each contract, the details of how revenues are to be dispersed, and any other information requested by the governing body.

2015, c. 699;2016, cc. 773, 774.

§ 2.2-3110. Further exceptions

A. The provisions of Article 3 (§ 2.2-3106 et seq.) shall not apply to:

1. The sale, lease or exchange of real property between an officer or employee and a governmental agency, provided the officer or employee does not participate in any way as such officer or employee in such sale, lease or exchange, and this fact is set forth as a matter of public record by the governing body of the governmental agency or by the administrative head thereof;
2. The publication of official notices;
3. Contracts between the government or school board of a county, city, or town with a population of less than 10,000 and an officer or employee of that county, city, or town government or school board when the total of such contracts between the government or school board and the officer or employee of that government or school board or a business controlled by him does not exceed \$5,000 per year or such amount exceeds \$5,000 and is less than \$25,000 but results from contracts arising from awards made on a sealed bid basis, and such officer or employee has made disclosure as provided for in § 2.2-3115;
4. An officer or employee whose sole personal interest in a contract with the governmental agency is by reason of income from the contracting firm or governmental agency in excess of \$5,000 per year, provided the officer or employee or a member of his immediate family does not participate and has no authority to participate in the procurement or letting of such contract on behalf of the contracting firm and the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of his governmental agency or he disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;
5. When the governmental agency is a public institution of higher education, an officer or employee whose personal interest in a contract with the institution is by reason of an ownership in the contracting firm in excess of three percent of the contracting firm's equity or such ownership interest and income from the contracting firm is in excess of \$5,000 per year, provided that (i) the officer or employee's ownership interest, or ownership and income interest, and that of any immediate family member in the contracting firm is disclosed in writing to the president of the institution, which writing certifies that the officer or employee has not and will not participate in the contract negotiations on behalf of the contracting firm or the institution, (ii) the president of the institution makes a written finding as a matter of public record that the contract is in the best interests of the institution, (iii) the officer or employee either does not have authority to participate in the procurement or letting of the contract on behalf of the institution or disqualifies himself as a matter of public record, and (iv) the officer or employee does not participate on behalf of the institution in negotiating the contract or approving the

contract;

6. Except when the governmental agency is the Virginia Retirement System, contracts between an officer's or employee's governmental agency and a public service corporation, financial institution, or company furnishing public utilities in which the officer or employee has a personal interest, provided the officer or employee disqualifies himself as a matter of public record and does not participate on behalf of his governmental agency in negotiating the contract or in approving the contract;

7. Contracts for the purchase of goods or services when the contract does not exceed \$500;

8. Grants or other payment under any program wherein uniform rates for, or the amounts paid to, all qualified applicants are established solely by the administering governmental agency;

9. An officer or employee whose sole personal interest in a contract with his own governmental agency is by reason of his marriage to his spouse who is employed by the same agency, if the spouse was employed by such agency for five or more years prior to marrying such officer or employee;

10. Contracts entered into by an officer or employee or immediate family member of an officer or employee of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1 to participate in the Virginia Agricultural Best Management Practices Cost-Share Program (the Program) established in accordance with § 10.1-546.1 or to participate in other cost-share programs for the installation of best management practices to improve water quality. This subdivision shall not apply to subcontracts or other agreements entered into by an officer or employee of a soil and water conservation district to provide services for implementation of a cost-share contract established under the Program or such other cost-share programs; or

11. Contracts entered into by an officer or immediate family member of an officer of the Marine Resources Commission for goods or services for shellfish replenishment, provided that such officer or immediate family member does not participate in (i) awarding the contract, (ii) authorizing the procurement, or (iii) authorizing the use of alternate procurement methods pursuant to § 28.2-550.

B. Neither the provisions of this chapter nor, unless expressly provided otherwise, any amendments thereto shall apply to those employment contracts or renewals thereof or to any other contracts entered into prior to August 1, 1987, which were in compliance with either the former Virginia Conflict of Interests Act, Chapter 22 (§ 2.1-347 et seq.) or the former Comprehensive Conflict of Interests Act, Chapter 40 (§ 2.1-599 et seq.) of Title 2.1 at the time of their formation and thereafter. Those contracts shall continue to be governed by the provisions of the appropriate prior Act. Notwithstanding the provisions of subdivision (f)(4) of former § 2.1-348 of Title 2.1 in effect prior to July 1, 1983, the employment by the same governmental agency of an officer or employee and spouse or any other relative residing in the same household shall not be deemed to create a material financial interest except when one of such persons is employed in a direct supervisory or administrative position, or both, with respect to such spouse or other relative residing in his household and the annual salary of such subordinate is \$35,000 or more.

1987, Sp. Sess., c. 1, § 2.1-639.9; 1990, c. 51; 1993, c. 303; 1994, cc. 450, 713; 1997, c. 641; 2001, c. 844; 2006, c. 839; 2010, cc. 301, 304; 2016, cc. 351, 531; 2017, cc. 150, 546, 829, 832; 2018, c. 742.

§ 2.2-3111. Application

This article proscribes certain conduct by state and local government officers and employees having a personal interest in a transaction.

1987, Sp. Sess., c. 1, § 2.1-639.10; 2001, c. 844.

§ 2.2-3112. Prohibited conduct concerning personal interest in a transaction; exceptions

A. Each officer and employee of any state or local governmental or advisory agency who has a personal interest in a transaction shall disqualify himself from participating in the transaction if (i) the transaction has application solely to property or a business or governmental agency in which he has a personal interest or a business that has a parent-subsidary or affiliated business entity relationship with the business in which he has a personal interest or (ii) he is unable to participate pursuant to subdivision B 1, 2, or 3. Any disqualification under the provisions of this subsection shall be recorded in the public records of the officer's or employee's governmental or advisory agency. The officer or employee shall disclose his personal interest as required by subsection E of § 2.2-3114 or subsection F of § 2.2-3115 and shall not vote or in any manner act on behalf of his agency in the transaction. The officer or employee shall be prohibited from (i) attending any portion of a closed meeting authorized by the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) when the matter in which he has a personal interest is discussed and (ii) discussing the matter in which he has a personal interest with other governmental officers or employees at any time.

B. An officer or employee of any state or local government or advisory agency who has a personal interest in a transaction may participate in the transaction:

1. If he is a member of a business, profession, occupation, or group of three or more persons the members of which are affected by the transaction, and he complies with the declaration requirements of subsection F of § 2.2-3114 or subsection H of § 2.2-3115;
2. When a party to the transaction is a client of his firm if he does not personally represent or provide services to such client and he complies with the declaration requirements of subsection G of § 2.2-3114 or subsection I of § 2.2-3115; or
3. If it affects the public generally, even though his personal interest, as a member of the public, may also be affected by that transaction.

C. Disqualification under the provisions of this section shall not prevent any employee having a personal interest in a transaction in which his agency is involved from representing himself or a member of his immediate family in such transaction provided he does not receive compensation for such representation and provided he complies with the disqualification and relevant disclosure requirements of this chapter.

D. Notwithstanding any other provision of law, if disqualifications of officers or employees in accordance with this section leave less than the number required by law to act, the remaining member or members shall constitute a quorum for the conduct of business and have authority to act for the agency by majority vote, unless a unanimous vote of all members is required by law, in which case authority to act shall require a unanimous vote of remaining members.

Notwithstanding any provisions of this chapter to the contrary, members of a local governing body whose sole interest in any proposed sale, contract of sale, exchange, lease or conveyance is by virtue of their employment by a business involved in a proposed sale, contract of sale,

exchange, lease or conveyance, and where such member's or members' vote is essential to a constitutional majority required pursuant to Article VII, Section 9 of the Constitution of Virginia and § 15.2-2100, such member or members of the local governing body may vote and participate in the deliberations of the governing body concerning whether to approve, enter into or execute such sale, contract of sale, exchange, lease or conveyance. Official action taken under circumstances that violate this section may be rescinded by the agency on such terms as the interests of the agency and innocent third parties require.

E. The provisions of subsection A shall not prevent an officer or employee from participating in a transaction merely because such officer or employee is a party in a legal proceeding of a civil nature concerning such transaction.

F. The provisions of subsection A shall not prevent an employee from participating in a transaction regarding textbooks or other educational material for students at state institutions of higher education, when those textbooks or materials have been authored or otherwise created by the employee.

G. The provisions of this section shall not prevent any justice of the Supreme Court of Virginia, judge of the Court of Appeals of Virginia, judge of any circuit court, judge or substitute judge of any district court, member of the State Corporation Commission, or member of the Virginia Workers' Compensation Commission from participating in a transaction where such individual's participation involves the performance of adjudicative responsibilities as set forth in Canon 3 of the Canons of Judicial Conduct for the State of Virginia. However, nothing in this subsection shall be construed to authorize such individual's participation in a transaction if such participation would constitute a violation of the Canons of Judicial Conduct for the State of Virginia.

1987, Sp. Sess., c. 1, § 2.1-639.11; 2001, c. 844; 2003, c. 694; 2007, c. 613; 2012, c. 429; 2017, cc. 829, 832.

§ 2.2-3113. Application

This article requires disclosure of certain personal and financial interests by state and local government officers and employees.

1987, Sp. Sess., c. 1, § 2.1-639.12; 2001, c. 844.

§ 2.2-3114. Disclosure by state officers and employees

A. In accordance with the requirements set forth in § 2.2-3118.2, the Governor, Lieutenant Governor, Attorney General, Justices of the Supreme Court, judges of the Court of Appeals, judges of any circuit court, judges and substitute judges of any district court, members of the State Corporation Commission, members of the Virginia Workers' Compensation Commission, members of the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of Directors of the Virginia Alcoholic Beverage Control Authority, members of the Board of the Virginia College Savings Plan, and members of the Virginia Lottery Board and other persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities, as may be designated by the Governor, or officers or employees of the legislative branch, as may be designated by the Joint Rules Committee of the General Assembly, shall file with the Council, as a condition to assuming office or employment, a disclosure statement of their personal interests and such other information as is required on the form prescribed by the

Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of all policy and supervisory boards, commissions and councils in the executive branch of state government, other than the Commonwealth Transportation Board, members of the Board of Trustees of the Virginia Retirement System, members of the Board of the Virginia College Savings Plan, and the Virginia Lottery Board, shall file with the Council, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1. Nonsalaried citizen members of other boards, commissions and councils, including advisory boards and authorities, may be required to file a disclosure form if so designated by the Governor, in which case the form shall be that prescribed by the Council pursuant to § 2.2-3118.

C. The disclosure forms required by subsections A and B shall be made available by the Council at least 30 days prior to the filing deadline. Disclosure forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. All forms shall be maintained as public records for five years in the office of the Council. Such forms shall be made public no later than six weeks after the filing deadline.

D. Candidates for the offices of Governor, Lieutenant Governor or Attorney General shall file a disclosure statement of their personal interests as required by § 24.2-502.

E. Any officer or employee of state government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112, or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall also be reflected in the public records of the agency for five years in the office of the administrative head of the officer's or employee's governmental agency or advisory agency or, if the agency has a clerk, in the clerk's office.

F. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

G. An officer or employee of state government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or

provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

H. Notwithstanding any other provision of law, chairs of departments at a public institution of higher education in the Commonwealth shall not be required to file the disclosure form prescribed by the Council pursuant to § 2.2-3117 or 2.2-3118.

1987, Sp. Sess., c. 1, § 2.1-639.13; 1988, cc. 767, 849; 1992, c. 710; 1993, c. 303; 1997, c. 641; 2001, cc. 217, 844; 2003, c. 694; 2005, c. 169; 2006, c. 779; 2014, cc. 225, 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832; 2018, c. 528.

§ 2.2-3114.1. Filings of statements of economic interests by General Assembly members

The filing of a current statement of economic interests by a General Assembly member, member-elect, or candidate for the General Assembly pursuant to §§ 30-110 and 30-111 of the General Assembly Conflicts of Interests Act (§ 30-100 et seq.) shall suffice for the purposes of this chapter. The Secretary of the Commonwealth may obtain from the Council a copy of the statement of a General Assembly member who is appointed to a position for which a statement is required pursuant to § 2.2-3114. No General Assembly member, member-elect, or candidate shall be required to file a separate statement of economic interests for the purposes of § 2.2-3114.

2002, c. 36; 2015, cc. 763, 777.

§ 2.2-3114.2. Report of gifts by certain officers and employees of state government

The Governor, Lieutenant Governor, Attorney General, and each member of the Governor's Cabinet shall file, on or before May 1, a report of gifts accepted or received by him or a member of his immediate family during the period beginning on January 1 complete through adjournment sine die of the regular session of the General Assembly. The gift report shall be on a form prescribed by the Council and shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. For purposes of this section, "adjournment sine die" means adjournment on the last legislative day of the regular session and does not include the ensuing reconvened session. Any gifts reported pursuant to this section shall not be listed on the annual disclosure form prescribed by the Council pursuant to § 2.2-3117.

2016, cc. 773, 774.

§ 2.2-3115. Disclosure by local government officers and employees

A. In accordance with the requirements set forth in § 2.2-3118.2, the members of every governing body and school board of each county and city and of towns with populations in excess of 3,500 shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, the members of the governing

body of any authority established in any county or city, or part or combination thereof, and having the power to issue bonds or expend funds in excess of \$10,000 in any fiscal year, shall file, as a condition to assuming office, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such a statement annually on or before February 1, unless the governing body of the jurisdiction that appoints the members requires that the members file the form set forth in § 2.2-3117.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by governing bodies and persons occupying such positions of employment with governing bodies as may be designated to file by ordinance of the governing body shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

In accordance with the requirements set forth in § 2.2-3118.2, persons occupying such positions of trust appointed by school boards and persons occupying such positions of employment with school boards as may be designated to file by an adopted policy of the school board shall file, as a condition to assuming office or employment, a disclosure statement of their personal interests and other information as is required on the form prescribed by the Council pursuant to § 2.2-3117 and thereafter shall file such a statement annually on or before February 1.

B. In accordance with the requirements set forth in § 2.2-3118.2, nonsalaried citizen members of local boards, commissions and councils as may be designated by the governing body shall file, as a condition to assuming office, a disclosure form of their personal interests and such other information as is required on the form prescribed by the Council pursuant to § 2.2-3118 and thereafter shall file such form annually on or before February 1.

C. No person shall be mandated to file any disclosure not otherwise required by this article.

D. The disclosure forms required by subsections A and B shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council at least 30 days prior to the filing deadline, and the clerks of the governing body and school board shall distribute the forms to designated individuals at least 20 days prior to the filing deadline. Forms shall be filed and maintained as public records for five years in the office of the clerk of the respective governing body or school board. Forms filed by members of governing bodies of authorities shall be filed and maintained as public records for five years in the office of the clerk of the governing body of the county or city. Such forms shall be made public no later than six weeks after the filing deadline.

E. Candidates for membership in the governing body or school board of any county, city or town with a population of more than 3,500 persons shall file a disclosure statement of their personal interests as required by § 24.2-502.

F. Any officer or employee of local government who has a personal interest in any transaction before the governmental or advisory agency of which he is an officer or employee and who is disqualified from participating in that transaction pursuant to subsection A of § 2.2-3112 or otherwise elects to disqualify himself, shall forthwith make disclosure of the existence of his interest, including the full name and address of the business and the address or parcel number for the real estate if the interest involves a business or real estate, and his disclosure shall be reflected in the public records of the agency for five years in the office of the administrative head

of the officer's or employee's governmental or advisory agency.

G. In addition to any disclosure required by subsections A and B, in each county and city and in towns with populations in excess of 3,500, members of planning commissions, boards of zoning appeals, real estate assessors, and all county, city and town managers or executive officers shall make annual disclosures of all their interests in real estate located in the county, city or town in which they are elected, appointed, or employed. Such disclosure shall include any business in which such persons own an interest, or from which income is received, if the primary purpose of the business is to own, develop or derive compensation through the sale, exchange or development of real estate in the county, city or town. In accordance with the requirements set forth in § 2.2-3118.2, such disclosure shall be filed as a condition to assuming office or employment, and thereafter shall be filed annually with the clerk of the governing body of such county, city, or town on or before February 1. Such disclosures shall be filed and maintained as public records for five years. Such forms shall be made public no later than six weeks after the filing deadline. Forms for the filing of such reports shall be made available by the Virginia Conflict of Interest and Ethics Advisory Council to the clerk of each governing body.

H. An officer or employee of local government who is required to declare his interest pursuant to subdivision B 1 of § 2.2-3112 shall declare his interest by stating (i) the transaction involved, (ii) the nature of the officer's or employee's personal interest affected by the transaction, (iii) that he is a member of a business, profession, occupation, or group the members of which are affected by the transaction, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day. The officer or employee shall also orally disclose the existence of the interest during each meeting of the governmental or advisory agency at which the transaction is discussed and such disclosure shall be recorded in the minutes of the meeting.

I. An officer or employee of local government who is required to declare his interest pursuant to subdivision B 2 of § 2.2-3112, shall declare his interest by stating (i) the transaction involved, (ii) that a party to the transaction is a client of his firm, (iii) that he does not personally represent or provide services to the client, and (iv) that he is able to participate in the transaction fairly, objectively, and in the public interest. The officer or employee shall either make his declaration orally to be recorded in written minutes for his agency or file a signed written declaration with the clerk or administrative head of his governmental or advisory agency, as appropriate, who shall, in either case, retain and make available for public inspection such declaration for a period of five years from the date of recording or receipt. If reasonable time is not available to comply with the provisions of this subsection prior to participation in the transaction, the officer or employee shall prepare and file the required declaration by the end of the next business day.

J. The clerk of the governing body or school board that releases any form to the public pursuant to this section shall redact from the form any residential address, personal telephone number, or signature contained on such form; however, any form filed pursuant to subsection G shall not have any residential addresses redacted.

1987, Sp. Sess., c. 1, § 2.1-639.14; 1988, c. 849; 1995, c. 495; 1996, c. 526; 2000, c. 317; 2001, cc. 217, 844; 2003, c. 694; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832.

§ 2.2-3116. Disclosure by certain constitutional officers

For the purposes of this chapter, holders of the constitutional offices of treasurer, sheriff, attorney for the Commonwealth, clerk of the circuit court, and commissioner of the revenue of each county and city shall be required to file with the Council, as a condition to assuming office, the Statement of Economic Interests prescribed by the Council pursuant to § 2.2-3117. These officers shall file statements annually on or before February 1. Candidates shall file statements as required by § 24.2-502. Statements shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. These officers shall be subject to the prohibition on certain gifts set forth in subsection B of § 2.2-3103.1.

1988, c. 469, § 2.1-639.14:1; 2001, c. 844; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774; 2017, cc. 829, 832.

§ 2.2-3117. Disclosure form

The disclosure form to be used for filings required by subsections A and D of § 2.2-3114 and subsections A and E of § 2.2-3115 shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356. Any person who knowingly and intentionally makes a false statement of a material fact on the Statement of Economic Interests is guilty of a Class 5 felony.

1987, Sp. Sess., c. 1, § 2.1-639.15; 1988, c. 849; 1994, cc. 724, 733, 777, 793; 1995, c. 763; 1996, c. 77; 1997, cc. 577, 844; 1998, c. 732; 2001, c. 844; 2006, cc. 310, 779, 787, 892; 2008, c. 239; 2010, c. 670; 2012, c. 429; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3118. Disclosure form; certain citizen members

The financial disclosure form to be used for filings required pursuant to subsection B of § 2.2-3114 and subsection B of § 2.2-3115 shall be filed in accordance with the provisions of § 30-356. The financial disclosure form shall be prescribed by the Council. Except as otherwise provided in § 2.2-3115, all completed forms shall be filed electronically with the Council in accordance with the standards approved by it pursuant to § 30-356.

1988, c. 849, § 2.1-639.15:1; 1996, c. 77; 2001, c. 844; 2006, c. 779; 2011, cc. 123, 177; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, cc. 773, 774.

§ 2.2-3118.1. Special provisions for individuals serving in or seeking multiple positions or offices; reappointees

A. The filing of a single current statement of economic interests by an individual required to file the form prescribed in § 2.2-3117 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual during the course of a calendar year. The filing of a single current financial disclosure statement by an individual required to file the form prescribed in § 2.2-3118 shall suffice for the purposes of this chapter as filing for all positions or offices held or sought by such individual and requiring the filing of the § 2.2-3118 form during the course of a calendar year.

B. Any individual who has met the requirement for annually filing a statement provided in § 2.2-

3117 or 2.2-3118 shall not be required to file an additional statement upon such individual's reappointment to the same office or position for which he is required to file, provided such reappointment occurs within 12 months after filing such annual statement.

2005, c. 397;2014, cc. 792, 804;2016, cc. 773, 774;2018, c. 529.

§ 2.2-3118.2. Disclosure form; filing requirements

A. An officer or employee required to file an annual disclosure on or before February 1 pursuant to this article shall disclose his personal interests and other information as required on the form prescribed by the Council for the preceding calendar year complete through December 31. An officer or employee required to file a disclosure as a condition to assuming office or employment shall file such disclosure on or before the day such office or position of employment is assumed and disclose his personal interests and other information as required on the form prescribed by the Council for the preceding 12-month period complete through the last day of the month immediately preceding the month in which the office or position of employment is assumed; however, any officer or employee who assumes office or a position of employment in January shall be required to only file an annual disclosure on or before February 1 for the preceding calendar year complete through December 31.

B. When the deadline for filing any disclosure pursuant to this article falls on a Saturday, Sunday, or legal holiday, the deadline for filing shall be the next day that is not a Saturday, Sunday, or legal holiday.

2017, cc. 829, 832.

§ 2.2-3119. Additional provisions applicable to school boards and employees of school boards; exceptions

A. Notwithstanding any other provision of this chapter, it shall be unlawful for the school board of any county or city or of any town constituting a separate school division to employ or pay any teacher or other school board employee from the public funds, federal, state or local, or for a division superintendent to recommend to the school board the employment of any teacher or other employee, if the teacher or other employee is the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law or brother-in-law of the superintendent, or of any member of the school board.

This section shall apply to any person employed by any school board in the operation of the public free school system, adult education programs or any other program maintained and operated by a local county, city or town school board.

B. This section shall not be construed to prohibit the employment, promotion, or transfer within a school division of any person within a relationship described in subsection A when such person:

1. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the taking of office of any member of such board or division superintendent of schools; or

2. Has been employed pursuant to a written contract with a school board or employed as a substitute teacher or teacher's aide by a school board prior to the inception of such relationship; or

3. Was employed by a school board at any time prior to June 10, 1994, and had been employed at any time as a teacher or other employee of any Virginia school board prior to the taking of office of any member of such school board or division superintendent of schools.

C. A person employed as a substitute teacher may not be employed to any greater extent than he was employed by the school board in the last full school year prior to the taking of office of such board member or division superintendent or to the inception of such relationship. The exceptions in subdivisions B 1, B 2, and B 3 shall apply only if the prior employment has been in the same school divisions where the employee and the superintendent or school board member now seek to serve simultaneously.

D. If any member of the school board or any division superintendent knowingly violates these provisions, he shall be personally liable to refund to the local treasury any amounts paid in violation of this law, and the funds shall be recovered from the individual by action or suit in the name of the Commonwealth on the petition of the attorney for the Commonwealth. Recovered funds shall be paid into the local treasury for the use of the public schools.

E. The provisions of this section shall not apply to employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any member of the school board, provided that (i) the member certifies that he had no involvement with the hiring decision and (ii) the superintendent certifies to the remaining members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that no member of the board had any involvement with the hiring decision.

F. The provisions of this section shall not apply to the employment by any school district of the father, mother, brother, sister, spouse, son, daughter, son-in-law, daughter-in-law, sister-in-law, or brother-in-law of any division superintendent, provided that (i) the superintendent certifies that he had no involvement with the hiring decision and (ii) the assistant superintendent certifies to the members of the governing body in writing that the employment is based upon merit and fitness and the competitive rating of the qualifications of the individual and that the superintendent of the division had no involvement with the hiring decision.

1987, Sp. Sess., c. 1, § 2.1-639.16; 1994, c. 758; 1995, c. 186; 1997, c. 84; 2001, c. 844; 2010, cc. 676, 759; 2011, c. 517; 2017, cc. 146, 515; 2018, cc. 483, 520; 2019, c. 641.

§ 2.2-3120. Knowing violation of chapter a misdemeanor

Any person who knowingly violates any of the provisions of Articles 2 through 6 (§§ 2.2-3102 through 2.2-3119) of this chapter shall be guilty of a Class 1 misdemeanor, except that any member of a local governing body who knowingly violates subsection A of § 2.2-3112 or subsection D or F of § 2.2-3115 shall be guilty of a Class 3 misdemeanor. A knowing violation under this section is one in which the person engages in conduct, performs an act or refuses to perform an act when he knows that the conduct is prohibited or required by this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.17; 2001, c. 844; 2012, c. 429.

§ 2.2-3121. Advisory opinions

A. A state officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the Attorney General or a formal opinion or written informal advice of the Council made in response to his

written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn provided the alleged violation occurred prior to the withdrawal of the opinion or advice.

B. A local officer or employee shall not be prosecuted for a knowing violation of this chapter if the alleged violation resulted from his good faith reliance on a written opinion of the attorney for the Commonwealth or a formal opinion or written informal advice of the Council made in response to his written request for such opinion or advice and the opinion or advice was made after a full disclosure of the facts regardless of whether such opinion or advice is later withdrawn, provided that the alleged violation occurred prior to the withdrawal of the opinion or advice. The written opinion of the attorney for the Commonwealth shall be a public record and shall be released upon request.

C. If any officer or employee serving at the local level of government is charged with a knowing violation of this chapter, and the alleged violation resulted from his reliance upon a written opinion of his county, city, or town attorney, made after a full disclosure of the facts, that such action was not in violation of this chapter, then the officer or employee shall have the right to introduce a copy of the opinion at his trial as evidence that he did not knowingly violate this chapter.

1987, Sp. Sess., c. 1, § 2.1-639.18; 2001, c. 844; 2003, c. 694; 2014, cc. 792, 804; 2015, cc. 763, 777; 2016, c. 665; 2017, cc. 829, 832.

§ 2.2-3122. Knowing violation of chapter constitutes malfeasance in office or employment

Any person who knowingly violates any of the provisions of this chapter shall be guilty of malfeasance in office or employment. Upon conviction thereof, the judge or jury trying the case, in addition to any other fine or penalty provided by law, may order the forfeiture of such office or employment.

1987, Sp. Sess., c. 1, § 2.1-639.19; 2001, c. 844.

§ 2.2-3123. Invalidation of contract; rescision of sales

A. Any contract made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be declared void and may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such contract. In cases in which the contract is invalidated, the contractor shall retain or receive only the reasonable value, with no increment for profit or commission, of the property or services furnished prior to the date of receiving notice that the contract has been voided. In cases of rescision of a contract of sale, any refund or restitution shall be made to the contracting or selling governmental agency.

B. Any purchase by an officer or employee made in violation of § 2.2-3103 or §§ 2.2-3106 through 2.2-3109 may be rescinded by the governing body of the contracting or selling governmental agency within five years of the date of such purchase.

1987, Sp. Sess., c. 1, § 2.1-639.20; 2001, c. 844.

§ 2.2-3124. Civil penalty from violation of this chapter

A. In addition to any other fine or penalty provided by law, an officer or employee who knowingly violates any provision of §§ 2.2-3103 through 2.2-3112 shall be subject to a civil penalty in an amount equal to the amount of money or thing of value received as a result of such violation. If the thing of value received by the officer or employee in violation of §§ 2.2-3103 through 2.2-

[3112](#) increases in value between the time of the violation and the time of discovery of the violation, the greater value shall determine the amount of the civil penalty. Further, all money or other things of value received as a result of such violation shall be forfeited in accordance with the provisions of § [19.2-386.33](#).

B. An officer or employee required to file the disclosure form prescribed by § [2.2-3117](#) who fails to file such form within the time period prescribed shall be assessed a civil penalty in an amount equal to \$250. The Council shall notify the Attorney General of any state officer's or employee's failure to file the required form and the Attorney General shall assess and collect the civil penalty. The clerk of the school board or the clerk of the governing body of the county, city, or town shall notify the attorney for the Commonwealth for the locality in which the officer or employee was elected or is employed of any local officer's or employee's failure to file the required form and the attorney for the Commonwealth shall assess and collect the civil penalty. The Council shall notify the Attorney General and the clerk shall notify the attorney for the Commonwealth within 30 days of the deadline for filing. All civil penalties collected pursuant to this subsection shall be deposited into the general fund and used exclusively to fund the Council.

1987, Sp. Sess., c. 1, § 2.1-639.21; 1994, cc. [727](#), [776](#); 2001, c. [844](#); 2012, cc. [283](#), [756](#); 2015, cc. [763](#), [777](#).

§ 2.2-3125. Limitation of actions

The statute of limitations for the criminal prosecution of a person for violation of any provision of this chapter shall be one year from the time the Attorney General, if the violation is by a state officer or employee, or the attorney for the Commonwealth, if the violation is by a local officer or employee, has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first. Any prosecution for malfeasance in office shall be governed by the statute of limitations provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.22; 2001, c. [844](#).

§ 2.2-3126. Enforcement

A. The provisions of this chapter relating to an officer or employee serving at the state level of government shall be enforced by the Attorney General.

In addition to any other powers and duties prescribed by law, the Attorney General shall have the following powers and duties within the area for which he is responsible under this section:

1. He shall advise the agencies of state government and officers and employees serving at the state level of government on appropriate procedures for complying with the requirements of this chapter. He may review any disclosure statements, without notice to the affected person, for the purpose of determining satisfactory compliance, and shall investigate matters that come to his attention reflecting possible violations of the provisions of this chapter by officers and employees serving at the state level of government;
2. If he determines that there is a reasonable basis to conclude that any officer or employee serving at the state level of government has knowingly violated any provision of this chapter, he shall designate an attorney for the Commonwealth who shall have complete and independent discretion in the prosecution of such officer or employee;
3. He shall render advisory opinions to any state officer or employee who seeks advice as to whether the facts in a particular case would constitute a violation of the provisions of this

chapter. He shall determine which opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

B. The provisions of this chapter relating to an officer or employee serving at the local level of government shall be enforced by the attorney for the Commonwealth within the political subdivision for which he is elected.

Each attorney for the Commonwealth shall be responsible for prosecuting violations by an officer or employee serving at the local level of government and, if the Attorney General designates such attorney for the Commonwealth, violations by an officer or employee serving at the state level of government. In the event the violation by an officer or employee serving at the local level of government involves more than one local jurisdiction, the Attorney General shall designate which of the attorneys for the Commonwealth of the involved local jurisdictions shall enforce the provisions of this chapter with regard to such violation.

Each attorney for the Commonwealth shall establish an appropriate written procedure for implementing the disclosure requirements of local officers and employees of his county, city or town, and for other political subdivisions, whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. The attorney for the Commonwealth shall provide a copy of this act to all local officers and employees in the jurisdiction served by such attorney who are required to file a disclosure statement pursuant to Article 5 (§ 2.2-3113 et seq.) of this chapter. Failure to receive a copy of the act shall not be a defense to such officers and employees if they are prosecuted for violations of the act.

Each attorney for the Commonwealth shall render advisory opinions as to whether the facts in a particular case would constitute a violation of the provisions of this chapter to the governing body and any local officer or employee in his jurisdiction and to political subdivisions other than a county, city or town, including regional political subdivisions whose principal offices are located within the jurisdiction served by such attorney for the Commonwealth. If the advisory opinion is written, then such written opinion shall be a public record and shall be released upon request. In case the opinion given by the attorney for the Commonwealth indicates that the facts would constitute a violation, the officer or employee affected thereby may request that the Attorney General review the opinion. A conflicting opinion by the Attorney General shall act to revoke the opinion of the attorney for the Commonwealth. The Attorney General shall determine which of his reviewing opinions or portions thereof are of general interest to the public and may, from time to time, be published.

Irrespective of whether an opinion of the attorney for the Commonwealth or the Attorney General has been requested and rendered, any person has the right to seek a declaratory judgment or other judicial relief as provided by law.

1987, Sp. Sess., c. 1, § 2.1-639.23; 2001, c. 844; 2003, c. 694.

§ 2.2-3127. Venue

Any prosecution for a violation involving an officer serving at the state level of government shall be brought in the Circuit Court of the City of Richmond. Any prosecution for a violation involving an employee serving at the state level of government shall be within the jurisdiction in which the employee has his principal place of state employment.

Any proceeding provided in this chapter shall be brought in a court of competent jurisdiction within the county or city in which the violation occurs if the violation involves an officer or employee serving at the local level of government.

1987, Sp. Sess., c. 1, § 2.1-639.24; 2001, c. 844.

§ 2.2-3128. Semiannual orientation course

Each state agency shall offer at least semiannually to each of its state filers an orientation course on this chapter, on ethics in public contracting pursuant to Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of this title, if applicable to the filer, and on any other applicable regulations that govern the official conduct of state officers and employees.

2004, cc. 134, 392.

§ 2.2-3129. Records of attendance

Each state agency shall maintain records indicating the specific attendees, each attendee's job title, and dates of their attendance for each orientation course offered pursuant to § 2.2-3128 for a period of not less than five years after each course is given. These records shall be public records subject to inspection and copying consistent with § 2.2-3704.

2004, cc. 134, 392.

§ 2.2-3130. Attendance requirements

Except as set forth in § 2.2-3131, each state filer shall attend the orientation course required in § 2.2-3128, as follows:

1. For a state filer who holds a position with the agency on January 1, 2004, not later than December 31, 2004 and, thereafter, at least once during each consecutive period of two calendar years commencing on January 1, 2006.
2. For a person who becomes a state filer with the agency after January 1, 2004, within two months after he or she becomes a state filer and at least once during each consecutive period of two calendar years commencing on the first odd-numbered year thereafter.

2004, cc. 134, 392.

§ 2.2-3131. Exemptions

A. The requirements of § 2.2-3130 shall not apply to state filers with a state agency who have taken an equivalent ethics orientation course through another state agency within the time periods set forth in subdivision 1 or 2 of § 2.2-3130, as applicable.

B. State agencies may jointly conduct and state filers from more than one state agency may jointly attend an orientation course required by § 2.2-3128, as long as the course content is relevant to the official duties of the attending state filers.

C. Before conducting each orientation course required by § 2.2-3128, state agencies shall consult with the Attorney General and the Virginia Conflict of Interest and Ethics Advisory Council regarding appropriate course content.

2004, cc. 134, 392; 2014, cc. 792, 804.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

Code of Ethics

The Code of Ethics defines a foundation of behavior for all employees of Fairfax County. This official guidance establishes an ethical framework for all employee actions and reflects the purpose and values of Fairfax County government as outlined in the Fairfax County's Framework for Excellence.

The revised code of ethics depicts six core principles of ethical behavior. The new code has similar themes as the previous Code of Ethics in 1963. However, the format and language have been updated to provide employees with a more positive and current perspective on ethics. Its scope has been expanded to include all Fairfax County personnel, **volunteers** and all elected and appointed officials.

Fairfax County Code of Ethics is intended to inspire a superior level of conduct, sensitivity and sound judgment for all employees. (1) The code is intended to complement, not replace all professional codes of ethics. Employees should be aware of and abide by their respective professional values and requirements. All employees must perform their designated function in a manner that reflects the highest standards of ethical behavior. All employees are obligated to respect, honor and uphold the Constitution, laws and legal regulations, policies and procedures of the United States, the Commonwealth of Virginia, and the County of Fairfax.

The code of ethics is supported by six core principles that form the ethical foundation of the organization: Honesty, Public Service, Respect, Responsibility, Stewardship and Trust.

I. Honesty: Be truthful in all endeavors; be honest and forthright with each other and the general public.

II. Public Service: Ensure all actions taken and decisions made are in the best interest of the general public.

III. Respect: Treat all individuals with dignity; be fair and impartial; affirm the value of diversity in the workplace and in Fairfax County; appreciate the uniqueness of each individual; create a work environment that enables all individuals to perform to the best of their abilities.

IV. Responsibility: Take responsibility for actions; work a full day; conduct all workplace actions with impartiality and fairness; report concerns in the workplace, including violations of laws, policies and procedures; seek clarification when in doubt; ensure that all decisions are unbiased.

V. Stewardship: Exercise financial discipline with assets and resources; make accurate, clear and timely disclosures to the public; maintain accurate and complete records; demonstrate commitment to protecting entrusted resources.

VI. Trust: Build regard for one another through teamwork and open communication; develop confidence with the public by fulfilling commitments and delivering on promises.

Standards of Conduct

All employees and volunteers are expected to adhere to the following Standards of Conduct. Violation of the Standards of Conduct is grounds for disciplinary action up to and including dismissal. (1) For the purpose of this document, the term employees includes all personnel, volunteers and all elected and appointed officials working on behalf of Fairfax County.

Leave and Attendance

Employees are expected to:

- Comply with rules and regulations governing hours of work, absences, use of leave.

Employees are prohibited from:

- Failing to report to work as scheduled without proper notice to supervisor;
- Leaving work without permission;
- Arriving late for work on a consistent basis.

Personal Behavior and Conduct

Employees are expected to:

- Demonstrate professionalism and support the county's commitment to excellent customer service at all times;
Exercise courtesy, respect and tact when dealing with fellow employees and volunteers and the public regardless of age, race, color, religion, sex, national origin, marital status, disability or sexual orientation or any other factor unrelated to the impartial conduct of county business.
- Comply with a proper order of an authorized supervisor.

Employees and volunteers are prohibited from:

- Harassing fellow employees and volunteers, county vendors, or members of the public on the basis of race, color, religion, sex, [sexual orientation], national origin, age, marital status, disability, or any other characteristic now or hereafter protected by federal, state or county law. This prohibition includes, but is not limited to, sexual harassment;
- Engaging in rude or unprofessional behavior or disorderly conduct even if the behavior is not expressly forbidden by regulation or law;
- Using racial, sexist or ethnic slurs or other language that disparages any person on the basis of age, race, color, religion, sex, national origin, marital status, disability or sexual orientation;
- Being convicted of a crime that is committed on the job or a felony in Virginia of such nature that the public or other employees and volunteers may be endangered if the employee remains in his or her position or of such nature that reasonably undermines the public trust in the employee's ability to perform his or her duties.
- Engaging in conduct on or off duty that violates federal or state law, county ordinances or policies when the violation is related to the employee's activity as a

county employee or to county business or when it undermines public trust in the county or the employee's ability to perform his or her duties.

- Manufacturing, distributing, possessing, using or being under the influence of alcohol or illegal drugs while at work or on county premises with the exception of attendance at events where alcohol is permitted during off duty hours;
- Threatening, assaulting, intimidating, or harassing another employee or a member of the public;
- Using obscene language toward fellow employees, supervisors, subordinates and/or members of the public;
- Abusing supervisory authority through favoritism, harassment, discrimination or mistreatment of employees.

Protection and Proper Use of County data, Property, Funds and Records

Employees are expected to:

- Use public property, resources, and funds in accordance with the established procedures;
- Maintain confidentiality with regard to client or customer information in accordance with state and federal law, county ordinance and county policy;
- Maintain employee confidentiality by preventing the disclosure of personal information to any unauthorized party.

Employees are prohibited from:

- Using county data, facilities, equipment, property or employees for other than officially approved activities, except as permitted under county policy or procedure;
- Engaging in any action prohibited by county information technology policy or procedure;
- Carelessly or willfully causing destruction of county property;
- Knowingly falsifying or conspiring to falsify any county record or report whether paper or electronic, (e.g., resume, time and attendance reports, workers' compensation claims, travel and/or expense vouchers).

Driving

Employees are expected to:

- Operate all county vehicles in accordance with federal, state and local driving laws;
- Operate privately owned vehicles being used in the performance of county business in accordance with state and local driving laws;
- Remain aware of status of operator's license and report any suspension or revocation of driving privileges to their supervisor immediately if job duties require the operation of a vehicle for county business.

Employees are prohibited from:

- Knowingly operating a vehicle on county business without a valid operator's license;

- Possessing, using, or being under the influence of alcohol, illegal drugs, or prescription drugs that might adversely affect one's ability to drive, while driving a county vehicle or while driving a personal vehicle on county business.

Safety

Employees are expected to:

- Promote safe and healthy working environment by complying with all appropriate safety and health regulations;
- Promptly report safety and health hazards so that they can be corrected before injuries result;
- Dress in appropriate attire, uniform or safety equipment as specified by the standards and work rules for the agency and position;
- Immediately report workplace violence to your supervisor or appropriate authority.

Employees are prohibited from:

- Bringing a gun, knife or other weapon, either concealed or displayed, to work or onto county premises, unless specifically authorized by the appointing authority to do so.

Outside Employment/Conflict of Interest

Employees are expected to:

- Disqualify themselves in any decision where a conflict of interest may be presumed to exist;
- Obtain permission from their appointing authority prior to engaging in any private business activity, employment or other activity outside of work that conflicts or interferes with full discharge of their official duties or the work they perform as a county employee.

Employees are prohibited from:

- Accepting anything of value for performing, or refraining from performing, an official job-related act; or accepting anything of value in order to assist another person in obtaining a county job, promotion, or contract;
- Using information obtained in connection with county employment in order to obtain financial gain for the employee or others;
- Accepting anything that might tend to influence the manner of performance of county employment or that might be intended to influence the manner in which a county employee performs his or her job;
- Having a personal interest in any contract with the county;
- Participating in matters related to their employment in which the interests of the county employee, or the interests of the county employee's family members or business associates, might be affected.

(1) For the purpose of this document, the term employees includes all personnel, volunteers and all elected and appointed officials working on behalf of Fairfax County.

CSB Board Officer Nominating Committee

Issue:

The CSB Board Chair is proposing the appointment of three CSB Board members to serve on the Nominating Committee to solicit potential candidates to serve as Board Officers in the upcoming fiscal year.

Recommended Motion:

I move that the Fairfax-Falls Church Community Services Board approve establishment of the Nomination Committee as identified by the CSB Board for coordinating the FY 2021 Board officer elections process.

Background:

The CSB Board Bylaws require that a nominating committee comprised of three Board members be established in April of each year to identify potential candidates to serve as Board officers for the upcoming fiscal year. The officer positions include the Chair, Vice Chair, and Secretary. Due to COVID-19 meeting restrictions CSB Board and Committee meetings were cancelled until CSB Board meetings could safely be resumed within the guidelines of the Governor's State of Emergency declaration, delaying the CSB Board Officer elections.

Following the deliberation process, at the July meeting, nominees for each office will be presented along with requests for any floor nominations and the elections held.

Timing:

Appointment of the Nominating Committee at the June 24, 2020 CSB Board meeting, with elections to take place at the July 22, 2020 Board meeting.

CSB Board member:

Bettina M. Lawton, Chair