



## Final Regulation Agency Background Document

<b>Agency name</b>	Department (Board) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6 VAC35-60
<b>Regulation title</b>	Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs
<b>Action title</b>	Comprehensive Review of Regulation to amend and clarify application of the regulation as determined through a Periodic Review
<b>Date this document prepared</b>	November 19, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.*

The Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (6VAC35-60) establishes basic operating standards for such programs. The regulation addresses the administration and responsibilities of Youth Services Citizen Boards, including the powers, appointments, and qualifications of board members. The regulation also sets minimum standards for the administration of Offices on Youth, addressing goals and objectives, personnel and operations, staff training and development, fiscal management, and monitoring and evaluation. Finally, the regulation establishes minimum standards for programs and services offered by Offices on Youth, including the development of a delinquency prevention and youth development plan, an operating plan, and direct service programs. This regulation applies to any Office that receives grant funding through the Virginia Delinquency Prevention and Youth Development Act. While no funds are currently appropriated through the state's budget for this purpose, should such funds be appropriated in the future, any recipient of the funding would be subject to this regulation.

This regulation was last reviewed in 2002, and, since then, a number of administrative changes have occurred. Thus, during the periodic review period, the regulation was reviewed in light of current practices, in consultation with local Offices on Youth, and in consideration of future grant recipients (as the Virginia Delinquency Prevention and Youth Development Act is not currently funded by the General Assembly). It was determined that some changes to the regulation would be beneficial for future grant recipients. The department convened an advisory committee, electronically administered, consisting of department personnel and representatives of locally operated Offices on Youth.

Modifications to the regulation were recommended to ensure that it supports the goals of the Delinquency Prevention and Youth Development Act, which are “to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency” in the most efficient manner. The changes also incorporate current practice into the existing framework and streamline many bureaucratic functions.

There were no changes to the final regulation from publication of the proposed regulation.

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency taking the action, and (3) the title of the regulation.*

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The Board of Juvenile Justice, at its November 18, 2009, meeting, approved the regulation for the Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs (6VAC35-60) to advance from the proposed to the final stage of the regulatory process with no changes or amendments.

### Legal basis

*Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter numbers, if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.*

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The Board of Juvenile Justice is entrusted with general authority to promulgate regulations by § 66-10 of the Code of Virginia, which states the Board may “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department.”

Additionally, § 66-28 of the Code of Virginia requires the Board of Juvenile Justice to “prescribe policies governing applications for grants pursuant to this chapter [The Virginia Delinquency and Youth Development Act] and standards for the operation of programs developed and implemented under the grants.”

The Board of Juvenile Justice is the promulgating entity.

## Purpose

*Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.*

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The Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs, 6VAC35-60, establish the general requirements for recipients of grant funding under the Delinquency Prevention and Youth Development Act (Chapter 3 of Title 66 of the Code of Virginia). The Delinquency Prevention and Youth Development Act requires the director of the Department of Juvenile Justice (DJJ) to develop and supervise delinquency prevention and youth development programs and authorizes the director to make grants to counties and cities to support their delivery of youth services and their response to juvenile delinquency.

The Board of Juvenile Justice (the Board) is statutorily required to develop regulations to govern the application for grants and the operation of programs funded under the Act. This regulation addresses the responsibilities and administration of Youth Services Citizen Boards and also sets minimum standards for the administration of Offices on Youth, addressing community needs assessments, planning, personnel and operations, fiscal management, and program monitoring and evaluation.

While the Delinquency Prevention and Youth Development Act has not been funded by the General Assembly in recent years, on several occasions localities have requested such funding to be reinitiated. Should the Act be funded, any applicable grant recipient would be subject to the regulation. Accordingly and per the requirements in §§ 2.2-4017 and 2-2-4007.1 of the Code of Virginia and Executive Order 36 (2006), the department conducted a “periodic review” of the regulation that was submitted for periodic review through the Regulatory Town Hall on December 27, 2007. A public comment forum was open from January 21 through February 20, 2008, during which no public comments were received. However, during this period, the department convened a multidisciplinary committee, which consisted of interested employees of the department’s Divisions of Community Programs and Administration and directors of local divisions of juvenile services and Offices on Youth. This committee, which was convened electronically, reviewed each section of the regulation to determine (1) whether the regulation is supported by statutory authority (as determined by the Office of the Attorney General) and (2) that the regulation is (a) necessary for the protection of public health, safety, and welfare; and (b) clearly written and easily understandable. Feedback was received from local Offices on Youth, in consideration of future grant recipients in order for the regulation to incorporate current practice into the existing framework. All amendments were made with the intent to make the process more effective and efficient should the Act be funded in the future.

The amendments to this regulation will protect the health, safety, and welfare of citizens by streamlining processes and promoting uniformity throughout the Commonwealth. The amendments will reduce some bureaucratic and administrative requirements required under the current regulations with the goals of improving the quality of services provided under grant programs in the community and reducing juvenile delinquency rates in subject localities. Having clear, consistent policies that reduce bureaucracy, especially in these tough economic times, and work in conjunction with localities to provide high quality services is of benefit to the health, welfare, and safety of the individuals receiving and providing the services as well as the community and citizenry generally.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the "All changes made in this regulatory action" section.*

The following changes were made to the Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs regulation:

- Changed the annual plan requirement to a requirement for a biennial comprehensive plan in order to coincide with other planning required by localities, including budgeting. The "Biennial Comprehensive Plan" is defined in section 10 and references thereto are changed throughout the regulation.
- Defined and required an "Annual Grant Programs Update" as provided in the Code of Virginia (sections 10 and 500). This change, combined with the requirement for a biennial comprehensive plan, will streamline the budget, review, and updating processes; keep the lines of communication open between DJJ and the grant recipients; and reduce duplicative planning and reporting.
- Removed the requirement for a full-time director (section 180) as the staffing requirements are already provided in section 225. Some Offices may have directors who are also responsible for managing another part of the locality's juvenile services. Because the amount of funding or services may vary greatly across programs and some programs may not need a full-time director, this requirement was removed.
- Amended the background check section (section 236) to require a check be completed on volunteers and staff if the volunteer or staff will provide services directly to a juvenile on a regular basis and will be alone with the juvenile while performing these duties. Amended the section to mirror the requirements applicable to residential facilities (required check components and allow an exception pending return of the FBI check if the employee's hiring is contingent upon completion of the check and the employee is supervised if he or she has contact with juveniles). Deleted the employee background checks section (section 237) as it would be duplicative due to the amendments to section 236. NOTE: the language mirroring the residential regulations was added at the request of the Office of the Governor.
- Amended the needs assessment section (section 450) to require two components to be evaluated every two years with all four components to be updated over a four-year cycle. As currently drafted, one component must be evaluated annually with all four components to be evaluated over the four-year cycle. The amendment allows some flexibility in the review with the end result (each component being evaluated over the four-year-cycle) remaining intact.
- Amended section 575 to reflect changes in the referenced regulatory provisions.
- Amended subdivision 3 in section 600 as appropriate qualifications are required by section 225, the applicable professional licensing authority, and the Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts (6VAC35-150).

**Issues**

*Please identify the issues associated with the proposed regulatory action, including:*

- 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
- 2) the primary advantages and disadvantages to the agency or the Commonwealth; and*
- 3) other pertinent matters of interest to the regulated community, government officials, and the public.*

*If there are no disadvantages to the public or the Commonwealth, please indicate.*

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This regulation is essential to protect the public safety by providing for the supervision of at-risk or delinquent juveniles. The regulation supports the goals of the Delinquency Prevention and Youth Development Act, which are “to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency” in the most efficient manner. The regulation provides guidance for operating and monitoring programs in the community that are funded under the Act.

The regulation further protects the public safety by establishing standards for the development, implementation, operation, and evaluation of community-based programs and services funded through the Act. Such programs provide supervision and services to at-risk or delinquent juveniles with the goal of preventing those juveniles from entering or further penetrating the juvenile justice system.

The amendments have been vetted through an advisory committee consisting of individuals who would be affected by the changes should funding be reinitiated. The amendments will streamline the reporting requirements and would not affect the quality of services provided by grant recipients or the ability of the department to oversee such functioning. The amendments do not pose any disadvantages to the public or the Commonwealth.

Having clear, concise, and consistent requirements across localities promotes the health, safety, and welfare of citizens by ensuring consistency in services throughout the Commonwealth.

**Changes made since the proposed stage**

*Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.*

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No changes have been made since the proposed stage.

**Public comment**

*Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.*

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No public comments were received.

**All changes made in this regulatory action**

*Please detail all changes that are being proposed and the consequences of the proposed changes. Detail new provisions and/or all changes to existing sections.*

<b>Current section number</b>	<b>Proposed new section number, if applicable</b>	<b>Current requirement</b>	<b>Proposed change and rationale</b>
10		Defines an “annual plan” as a plan covering a single fiscal year, based on an assessment of the community’s needs, which sets goals and objectives for youth services.	Changes the “annual plan” to a “Biennial Comprehensive Plan” with an “Annual grant programs update” to coincide with the Commonwealth’s biennial budget cycle while keeping the department aware of the status of the programs funded by the grants. All references to the “annual plan” have been changed to “biennial comprehensive plan” throughout the document.
10		Defines an “individual service plan” as a plan to meet a juvenile’s needs that specifies goals, the methods and timeframes for reaching the goals, and the responsible parties.	Amends the definition to apply also to adults as adults, such as family members or care givers, receive services under this regulation. The definition is changed to require “measurable” goals and “objectives and strategies” rather than methods for consistency with the best practices from other fields, such as education and mental health.
10		Defines a “local governing body” as a city council or county board of supervisors.	Amends the definition to ensure that all forms of local governing bodies are included.
10		Defines “locality” as a city or county or combination thereof.	Adds “towns” to the definition to ensure that all types of localities were included.
10		Defines “supervision” as that required by court service unit staff, among others.	Clarifies the definition as to which court service unit staff would be making supervision a requirement.
10		Defines “volunteer” as an individual who provides goods or services without compensation.	Amends the definition to include “interns” as a type of volunteer and that such services may or may not be provided to the program to ensure that the scope of applicable provisions was not too narrow.
40		Requires a “Youth Services Citizen Board” to have appointed members including a youth member.	Adds that the appointment will be made by the local governing body, which is consistent with how such members have been appointed previously, and clarified that “youth” are members who are below the age of 18 at the time of the appointment.
71		Requires the Youth Services Board’s responsibilities to be written and approved by the local governing body.	Details the statutory requirements for Youth Services Citizen Boards to ensure that such obligations are known and clear.
180		Requires the Office on Youth to have one paid full-time	Deletes the requirement that the Office on Youth have a paid full-time director. Often, the Office

		director.	on Youth director is also the director of a locality’s VJCCA plan or other juvenile services. Since appropriate staffing is required by section 215 (which may or may not require a full-time director depending on the needs of the Office), this requirement is recommended for deletion.
190		Requires the Office on Youth have access to clerical and other support services.	Modifies that such access shall be available “as needed”). Given the staffing requirements in section 215, such access may not be necessary in all localities. Adding the term “as needed” provides flexibility to localities while not reducing the efficiency of any Office.
225		Requires staff and volunteers to have appropriate qualification and training for the services provided.	Adds the term “certified” to the types of qualifications and trainings that must be appropriate to services provided. This addition is necessary because some services require specific certification (i.e., Certified Sex Offender Treatment Providers).
236		Requires volunteers to have appropriate background checks.	Amends the section to include the background check requirements for staff and clarifies when such checks are required. Amended the section to mirror the requirements applicable to residential facilities (required check components and allow an exception pending return of the FBI check if the employee’s hiring is contingent upon completion of the check and the employee is supervised if he or she has contact with juveniles).
237		Requires employees to have appropriate background checks.	Deletes this section and moves applicable provisions to section 236.
290		Requires a training program to be implemented in accordance with the Annual Plan and updated annually for each full-time position.	Changes the training program to be in accordance with the Biennial Comprehensive Plan and updated annually as needed.
330		Requires a budget to be submitted annually.	Changes the annual submission to a biennial submission in accordance with the state’s biennial budget process.
450		Requires a needs assessment to be developed based on the assessment of four components. One of these components must be evaluated annually, with all four evaluated over the four-year cycle.	Amends the needs assessment to require two components to be evaluated every two years with all four to be updated over a four-year cycle. The amendment allows some flexibility in the review with the end result (each component to be evaluated over the four-year cycle) remaining intact.
575		Requires Offices on Youth to comply with certain provisions of the Standards for Nonresidential Services Available to Juvenile and Domestic Relations District Courts.	Reflects changes in the referenced regulatory provisions.

600		Requires Offices on Youth’s records to include verification of appropriate licensure for service providers.	Deletes the requirement for such records to be retained in the Offices’ records.
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**Regulatory flexibility analysis**

*Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.*

Small businesses may be affected in as much as a small business provides a program or service subject to this regulation. Having clear, concise, and consistent requirements across localities (i) provides such entities with clear requirements and (ii) ensures consistency in such requirements throughout the Commonwealth. The amendments will streamline the reporting requirements and will not affect the quality of services provided by program and service providers subject to the regulation or the ability of the department to oversee such functioning. Thus, any affected small businesses would benefit.

**Family impact**

*Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one’s spouse, and one’s children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

This regulatory action should have a positive impact on families when members receive services through grant-funded programs or services should such services be funded by the General Assembly. To the extent the regulation improves those services or promotes health and safety in them, families should be impacted positively. When funding is allocated and grants are made available, the regulation will serve to bolster family relationships and communities due to the focus on preventing delinquency and promoting youth development. The regulation is not expected to have any impact on disposable family income.