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Exempt Action: Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-675
VAC Chapter title(s)	Personnel Policies for Local Departments of Social Services
Action title	Update Personnel Policies for Local Departments of Social Services to Align with Federal Law
Final agency action date	December 13, 2023
Date this document prepared	November 17, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

Proposed amendments in Subsection A of 22VAC40-675-210, Paragraphs 1. and 3. (Political Activity) involve the addition of the changes consistent with the Hatch Act Modernization Act of 2012. The changes to the Hatch Act (5 USC §§ 1501-1508) allow more flexibility for local employees who wish to run as a candidate in a partisan public elective office in a primary, general, or special election.

Prior to the Hatch Act Modernization Act of 2012, local employees, as defined in 5 USC 1501, were prohibited from running as a candidate for a partisan public elective office if their principal employment was connected with an activity paid either partially or entirely by loans or grants made by the United States or a federal agency. After the changes in the Hatch Act Modernization Act of 2012, local employees are permitted to run as candidates in these elections if their positions are not paid completely from such loans or grants. Local employees are still responsible for adhering to the remaining

stipulations of the Hatch Act (Paragraphs 1. And 2.) regardless of whether their employment is paid partially or entirely from such loans or grants.

Amendments to subsections C of 22VAC40-675-210 (Political Activity) correct the misspelling of the word "principal."

Proposed amendments in subsections D of 22VAC40-675-210 (Political Activity) add the phrase "...and applicable state and local laws, regulations, and ordinances." There are some Virginia Code sections that may apply that do not conflict with the federal Hatch Act, or the locality may have a conflict-of-interest provision that would apply to the local department worker for certain public office positions.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The mandate for these regulatory changes is the Hatch Act Modernization Act of 2012 and the need to update VDSS's regulations based on this Act.

Statement of Final Agency Action

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.

The State Board of Social Services took final action on Personnel Policies for Local Departments of Social Services on December 13, 2023.