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Fast-Track Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-670
Regulation title(s)	Degree Requirements for Family Services Occupational Group
Action title	Amend Degree Requirements for Family Services Occupational Group
Date this document prepared	August 17, 2016

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

The regulation provides minimum entrance standards for the Family Services Occupational Group. The regulation is being amended to promote the effective recruitment of qualified individuals and to correct a date for consistency with the Code of Virginia Section 63.2-219. Revisions were also made for the purpose of clarity and reformatting of information to conform to the requirements of "Form, Style, and Procedure Manual for Publication of Virginia Regulations."

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

There are no undefined acronyms or technical terms used in the Agency Background Document.

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.

The State Board of Social Services took final action on 22VAC40-670-20, Degree Requirements for Family Services Occupational Group, on August 17, 2016.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

Section 63.2-217 of the Code provides the board general authority for the development of regulations to carry out the purposes of Title 63.2. Section 63.2-219 requires the board to establish entrance and performance standards.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.

The amendments are necessary for effective recruitment of qualified individuals to fill positions assigned to the Family Services Occupational Group. The amendments also clarify requirements for promotion and consideration for hire by other local departments of individuals employed in the Family Service Occupational Group or its equivalent prior to January 1, 1999, who do not meet the degree requirements. Information regarding training was revised to be consistent with child welfare training requirements. The amendments comply with federal and state laws and ensure appropriate oversight of local departments who are providing vital services which protect the health, safety and welfare of citizens

Rationale for using fast-track process

Please explain the rationale for using the fast-track process in promulgating this regulation. Why do you expect this rulemaking to be noncontroversial?

Executive Order 17 (2014) allows state agencies to use a fast-track rule making process to expedite regulatory changes that are expected to be non-controversial. The amendments to the regulation incorporate requirements of federal and state laws and make technical corrections. The amend

regulation will have a positive impact on hiring in local departments of social services. As a result, no objections are anticipated.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

The amendment would allow evaluation of individuals who are in their final semester of a degree program at the time of application for a position and who, upon completion of the degree program, would meet the degree requirement prior to the employment date.

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.

The advantage of this regulatory action to the agency and to the public is that it makes the requirements of the regulation favorable for individuals seeking employment and for local departments in staffing positions assigned to the Family Services Occupational Group, while remaining in compliance with the requirements of federal and state laws. There are no disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

The proposed changes do not contain any requirements that are more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality is particularly affected by the proposed changes.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, 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.

There is not a viable alternative to amending the regulation. The proposed amendments are not expected to have any adverse impact on small businesses.

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>Implementation and enforcement of the amendments to the regulation will not result in any increased costs to the state.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>None</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>The amendments to the regulation will affect individuals seeking employment with local departments, employees of local departments of social services, and local departments of social services.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>There are 120 local departments of social services.</p>
<p>All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential</p>	<p>Implementation and enforcement of the amended regulation will not result in any increased costs to the affected individuals, businesses, or other entities.</p>

<p>purposes that are a consequence of the proposed regulatory changes or new regulations.</p>	
<p>Beneficial impact the regulation is designed to produce.</p>	<p>Increased ability to protect the health, safety and welfare of the public by having specific regulations that are consistent with the requirements of federal and state laws.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

The action incorporates the requirements of state statutes and clarifies existing requirements. There is no less intrusive or less costly alternative that achieves the purpose of the regulation.

Public participation notice

If an objection to the use of the fast-track process is received within the 30-day public comment period from 10 or more persons, any member of the applicable standing committee of either house of the General Assembly or of the Joint Commission on Administrative Rules, the agency shall: 1) file notice of the objections with the Registrar of Regulations for publication in the Virginia Register; and 2) proceed with the normal promulgation process with the initial publication of the fast-track regulation serving as the Notice of Intended Regulatory Action.

Family impact

Please assess the impact of this 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.

The proposed changes will have no impact on the institution of the family and family stability.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being proposed in this regulatory action. If the proposed regulation is intended to replace an emergency

regulation, please list separately: (1) all differences between the pre-emergency regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
20		<p>Policy</p> <p>In order to be “evaluated for vacancies,” individuals must meet degree requirements.</p> <p>Indicates “applicants”</p> <p>Current requirement does not include information about minimum requirement relative to condition of employment.</p> <p>Indicates “Possess a minimum of a”</p> <p>The existing regulation does not allow for evaluation of individuals who are in their final semester of a degree program at the time of application for a position.</p>	<p>Created subsections A, B, C, D and E to separate requirements, add a new requirement, and clarify information.</p> <p>Subsection A:</p> <p>Changed to “In order to be hired for positions...” for consistency with Code of Virginia § 63.219. Requirement was overly restrictive and excluded from evaluation individuals who would, prior to employment, meet the degree requirement.</p> <p>Changed to “individuals” for consistency in the use of terms throughout regulation.</p> <p>Added “possess prior to their employment date a minimum of” to clarify requirement and to be consistent with Code of Virginia § 63.219.</p> <p>Information moved to lead-in paragraph of subsection A. List requirements using subdivision format of 1 and 2.</p> <p>Subsection B:</p> <p>Added “In order to be evaluated for positions in the Family Services Occupational Group, individuals who do not meet the degree requirement at the time of application must be in their last semester of a degree program that will meet the requirements of subsection A.”</p> <p>These individuals include those who are serving as interns in local departments and in other human services organizations. It doesn’t</p>

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		<p>Indicates “3.”</p> <p>Indicates “persons”</p> <p>Indicates “currently”</p> <p>The Family Services Occupational Group replaced the Social Worker Classification Series effective March 1, 2013 to comply with Code of Virginia, § 54.1-3709.</p> <p>In being considered for a promotion, there is no requirement regarding breaks in employment.</p> <p>In considering an employee for promotion, the provision references those employed “September 1, 1990.”</p> <p>Refers to individuals “who do</p>	<p>make business sense to exclude these individuals from the evaluation process, let alone from being considered for hire should they possess the minimum qualifications prior to the employment date. Local departments are placed at a disadvantage from effectively recruiting and employing qualified individuals.</p> <p>Subsection C:</p> <p>Changed to “C.” to correspond with use of subsections.</p> <p>Changed to “individuals” for consistency in the use of terms throughout regulation.</p> <p>Deleted to correspond with rephrasing of requirements in subsection C.</p> <p>Added “or its equivalent” to acknowledge that a different classification was in effect prior to January 1, 1999.</p> <p>Added “without a break in service” to clarify conditions of allowing employees employed prior to January 1, 1999 to retain their current occupational title or lesser without having to meet the degree requirement. Individuals who break employment service from a local department and apply for a position in the future to the same or another local department would be subject to requirements in subsections A or B.</p> <p>Corrected with “January 1, 1999” for consistency with Code of Virginia § 63.2-219.</p> <p>Replaced with “1. The requirements</p>

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		<p>not meet the requirements of subdivision 1 or 2 of this section,”</p> <p>In considering an employee for promotion, completion of “available competency based training” is referenced.</p> <p>Provides that if an individual does not indicate possession of the requirements in subdivision 1, 2, or 3 of the section, on the application, he will not be qualified for the position.</p> <p>Provides that once the applicant has noted the possession of a baccalaureate degree in the human services field on the application or resume, the evaluation process will continue using knowledge, skill, and ability criteria.</p> <p>The Family Services Occupational Group replaced the Social Worker Classification Series effective March 1, 2013 to comply with Code of Virginia, § 54.1-3709.</p> <p>Regulation does not include reference a break in service.</p>	<p>in subsection A or B; or” to correspond with changes. Inserted “2.” to list second requirement under subsection C.</p> <p>Replaced “competency based” with “required.” This change was made to correspond with completion of required training for individuals in the Family Services Occupational Group.</p> <p>Removed reference to subdivision 1, 2, and 3 due to changes in subsections A, B and C and addition of subsection D.</p> <p>Subsection D:</p> <p>Rephrased information, clarified conditions for individuals to be further evaluated, and referenced subsections A, B, or C to correspond with changes. Retained criteria of knowledge, skill and ability to comply with CFR § 900.603, Standards for a merit system of personnel administration. Removed “resume.” Individuals are required to submit an application, which includes an education section. A resume cannot substitute for an application.</p> <p>Subsection E:</p> <p>Added “or its equivalent” to acknowledge that a different classification was in effect prior to January 1, 1999.</p> <p>Added “without a break in service” to clarify conditions of allowing employees employed prior to January 1, 1999 to retain their current occupational title or lesser without having to meet the degree</p>

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
		<p>Indicates "subdivision 1, 2, or 3 of this section"</p> <p>Individuals employed in the Family Services Occupational Group prior to September 1, 1990 who do not meet the degree requirements referenced in subdivisions 1, 2 and 3 will be retained in their current title without having to meet the degree requirements, including the same title in another local department.</p> <p>Indicates "subdivision 1, 2, or 3"</p> <p>Regulation did not indicate occupational title.</p>	<p>requirement. Individuals who break employment service from a local department and apply for a position in the future to same or another local department would be subject to requirements in subsections A or B.</p> <p>Replaced with subsection A to correspond with changes.</p> <p>Rephrased and clarified condition for consideration by another local department, "These individuals may be considered for employment in the same occupational title in another local department provided that there is no break in service."</p> <p>Added "provided that there is no break in service" to clarify conditions of allowing employees employed prior to January 1, 1999 to retain their current occupational title or lesser without having to meet the degree requirement.</p> <p>Replaced with "subsection A, B, or C" to correspond with changes.</p> <p>Added "in the Family Services Occupational Group" to clarify applicable occupational title.</p>