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## Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	22 VAC 40 - 211
<b>Regulation title(s)</b>	Foster and Adoptive Family Home Approval Standards
<b>Action title</b>	Amend Foster and Adoptive Home Approval Regulation 2017
<b>Date this document prepared</b>	June 19, 2019

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 14 (as amended, July 16, 2018), the Regulations for Filing and Publishing Agency Regulations (1 VAC7-10), and the *Virginia Register Form, Style, and Procedure Manual for Publication of Virginia Regulations*.

### Brief Summary

*Please 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.*

This regulation addresses standards for foster and adoptive homes approved by local departments of social services (LDSS). Changes in the proposed regulatory action include clarifying that background checks conducted for youth over 18 years old in the Fostering Futures program be used for the sole purpose of determining whether other children should be placed or remain in the same foster home as the Fostering Futures program participant (Chapter 194 of the 2017 Acts of Assembly). The background checks are not to be used as a basis for terminating or suspending the approval of the foster home.

Additionally, this regulatory action addresses standards for foster and adoptive homes approval by requiring local agencies to use the Mutual Family Assessment (MFA) home study template and authorizes Virginia Department of Social Services (VDSS) to amend the MFA template and any necessary addenda (Chapter 193 of the 2017 Acts of Assembly).

Lastly, this regulatory action updates training requirements for prospective foster and adoptive providers by requiring the Normalcy for Youth in Foster Care training as part of the pre-service training. Training requirements for current providers have been updated to require that they complete Normalcy for Youth in Foster Care training (Chapter 631 of the 2016 Acts of Assembly).

Additional amendments may be deemed necessary based on public comment received.

### 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.*

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- LDSS - local departments of social services
- VDSS - Virginia Department of Social Services
- CRAFFT - Consortium for Resource, Adoptive and Foster Family Training
- LCPA - Licensed Child Placing Agency
- MFA - Mutual Family Assessment

### 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 State Board of Social Services took final action on 22VAC40-211, Foster and Adoptive Family Home Approval Standards, on June 19, 2019.

### Mandate and Impetus

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously-reported information, include a specific statement to that effect.*

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There were no changes to previously reported information.

### Legal Basis

*Please identify (1) the agency or other promulgating entity, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency or promulgating entity's overall regulatory authority.*

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The legal authority for this regulatory action can be found in §§ 63.2-217 and 63.2-901.1 of the Code of Virginia. These sections provide general authority to the State Board of Social Services for developing regulations for foster and adoptive home approval standards.

Additionally, this regulatory action is necessary to comply with the 2017 Acts of Assembly, Chapter 194 (HB 1942) that requires children over 18 years old in foster care to have background checks for the purpose of determining the placement of other children in the same home, the 2017 Acts of Assembly, Chapter 193 (HB 1795) that requires the use of the MFA home study template when approving foster and adoptive homes, and the 2016 Acts of Assembly, Chapter 631 (HB 600) that requires the Board to adopt regulations that promote normalcy for children in foster care.

### Purpose

*Please explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety or welfare of citizens, and (3) the goals of the regulatory change and the problems it's intended to solve.*

The proposed regulatory action clarifies that the results of background checks conducted on Fostering Future participants will be used for the sole purpose of determining current and future placements in the foster home, which is essential in protecting the health, safety, and welfare of all children.

The regulatory action also requires LDSS to use the MFA home study template when approving foster and adoptive homes. By requiring one uniform template, the agency will attain consistency among the numerous localities and ensure that all foster and adoptive homes are held to the same high standard; thereby, protecting the health, safety, and welfare of children in these homes.

Requiring foster and adoptive parents to complete the Normalcy for Youth in Foster Care training is essential to ensure that children placed in foster care will be provided the most normal life experience as possible.

### 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.*

Substantive proposed changes to the regulation include: adding a new sub-section clarifying that results of background checks conducted for youth over 18 years old in the Fostering Futures program be used for the sole purpose of determining current and future placements of children in that particular foster home; amending standards for foster and adoptive home approval by requiring the application of the MFA template when approving provider homes; and requiring Normalcy for Youth in Foster Care training for all prospective and current providers.

### Issues

*Please identify the issues associated with the regulatory change, 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, include a specific statement to that effect.*

The regulatory action poses no disadvantages to the public or the Commonwealth. This regulatory action proposes amendments, which provide for the safety of children and foster families by requiring youth participating in the Fostering Futures program to submit to background checks for the sole purpose of

deciding current and future placements in the foster home. Additionally, this regulatory action promotes consistency amongst different localities when approving foster and adoptive homes by the use of a standard home study template. Normalcy training requirements will improve the skills and knowledge of approved providers and will ensure that youth in foster care have the same opportunities as children who are not in foster care.

**Requirements More Restrictive than Federal**

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously-reported information, include a specific statement to that effect.*

There are no requirements in this regulatory action that are more restrictive than applicable federal requirements.

**Agencies, Localities, and Other Entities Particularly Affected**

*Please list all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously-reported information, include a specific statement to that effect.*

Other State Agencies Particularly Affected:  
No other State Agencies will be particularly affected by the proposed regulation.

Localities Particularly Affected:  
This regulatory action will not affect any particular locality in a disproportionate manner, as compared to other localities.

Other Entities Particularly Affected:  
No other entities will be particularly affected by the proposed regulation.

**Public Comment**

*Please summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency response. Ensure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency or board. If no comment was received, enter a specific statement to that effect.*

Commenter	Comment	Agency response
Nanette Jarratt, United Methodist Family Services (UMFS)	UMFS recommended that where “kinship foster parent” is defined, it should specify that individuals currently serving as court appointed guardians could become kinship foster parents.	The agency acknowledged the recommendation but did not incorporate the proposed change in the regulation because it was specifically referring to the Kinship Guardianship Assistance Program (KinGAP) and this regulatory action is not dealing specifically with KinGAP. The recommendation was referred to the program

		manager overseeing the separate regulatory action that is proposing a new section specifically on KinGAP.
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**Detail of Changes Made Since the Previous Stage**

*Please list all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Please put an asterisk next to any substantive changes.*

There were no changes to the text of the regulation since the previous stage was published in the Virginia Register of Regulations.

**Detail of All Changes Proposed in this Regulatory Action**

*Please list all changes proposed in this action and the rationale for the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. \* Please put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirement	Change, intent, rationale, and likely impact of updated requirements
10			Adds the definition of “Normalcy.”
40			Adds requirement for the usage of the approved MFA template when approving homes.
60			Adds the requirement that foster and adoptive providers must complete Normalcy for Youth in Foster Care training.
80			Adds new sub-section clarifying that background checks for Fostering Futures participants are to be used for the sole purpose of determining new and current placements in the home.
	120		Adds new section requiring normalcy for children placed in foster care. Normalcy is a requirement of the Preventing Sex Trafficking and Strengthening Families Act of 2014, which allows foster parents to make day-to-day decisions about a child’s participation in age-appropriate extracurricular, enrichment and social activities.