



COMMONWEALTH of VIRGINIA

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TO: **KARIN CLARK**
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FROM: **SUSAN P. D. WHYTE** *SPD*
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DATE: **July 19, 2021**

SUBJECT: Implement Foster Parent Bill of Rights and Re-enforce the Role of the Foster and Adoptive Parents; Proposed Regulation – 22 VAC 40-211

I am in receipt of the attached regulations to implement the Foster Parent Bill of Rights and re-enforce the role of the foster and adoptive parents. You have asked the Office of the Attorney General to review and determine if the Department of Social Services (“DSS”) has the legal authority to promulgate these regulations and if they comport with state and federal law.

The State Board’s authority to promulgate this regulation is granted under Virginia Code § 63.2-217. This regulation is not exempt from, but subject to, the procedures of Article 2 of the Administrative Process Act. It is my opinion that the State Board of Social Services has not exceeded its authority to promulgate these regulations.

If you have any questions or need additional information about these regulations, please contact me at (804) 786-3450.

Project 6764 - Proposed

Department Of Social Services

**Implement Foster Parent Bill of Rights and Re-enforce the Role of Foster and Adoptive
Parents**

22VAC40-211-130. Foster parent bill of rights and dispute resolution process.

A. In accordance with § 63.2-902 of the Code of Virginia relating to foster care agreements and the rights of foster parents regarding resolution of disputes, each local department of social services shall implement and ensure that all foster parents receive a copy of the Foster Parent Bill of Rights and that a signed copy of receipt is placed in the foster parent's file.

Foster parents shall abide by all responsibilities as set forth in state and federal law, including all responsibilities set forth in this chapter.

In addition to any claim for benefits pursuant to 42 USC § 671 et seq., and pursuant to § 63.2-905 of the Code of Virginia, all foster parents have the following rights regarding collaboration, communication, access, and transparency:

1. To be regarded as the primary caregiver of a child placed in foster care and to be treated with dignity, respect, trust, value, and consideration, including the local department giving due consideration to the foster parent's family values, traditions, and beliefs;
2. To receive copies of all documents related to the foster parent, the foster parent's family, and ongoing services provided to the foster home;
3. To be considered part of the foster care team and to be able to contribute input regarding the child's permanency plan and receive copies of the plan;
4. To be provided all reasonably ascertainable background, medical, and psychological records of the child prior to placement, at the initial placement, or at any time during the placement of a child in foster care;
5. To be provided all information relevant to the child's foster care services as allowed by federal and state law;
6. To be notified of court hearings and scheduled meetings;
7. To be informed of decisions made by the court, local board, or licensed child-placing agency concerning the child's foster care services;

8. To be able to communicate, to the extent permitted under federal and state law, with professionals who work directly with the child in foster care, including therapists, physicians, and teachers;

9. To be informed in a timely manner of changes to the child's case plan or the termination of the child's placement;

10. To be afforded the same rights as outlined in the Foster Care Placement Agreement and the Code of Ethics and Mutual Responsibilities;

11. To be provided with reimbursements for costs associated with foster care services in a timely manner;

12. To be provided with a method to contact the local board or licensed child-placing agency for assistance 24 hours a day and seven days a week; and

13. To receive a timely response from the local department of social services regarding whether or not information may be provided to requests for information regarding the child's progress after leaving foster care.

B. Foster parents have a right to file a complaint regarding alleged violations of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents. When filing such a complaint, foster parents must follow the following steps:

1. The foster parent shall contact the service worker assigned to the foster home within 10 business days and provide a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child placing agencies, and the foster parents and attempt to resolve the dispute.

2. The service worker shall respond within five business days and explain any corrective action to be taken in response to the foster parent's complaint.

3. If the foster parent and service worker are unable to resolve the complaint informally, the foster parent may file a written complaint through the dispute resolution process with the local board's foster care supervisor or assigned designee.

a. The written complaint shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and a copy of the service worker's response.

b. The written complaint shall be sent to the supervisor and must be received by the supervisor within 10 business days of the foster parent receiving the service worker's response.

4. The foster care supervisor or assigned designee shall respond to the complaint in writing within five business days setting forth all findings regarding the alleged violation and any corrective action taken.

5. If the foster parent disagrees with the findings or corrective actions proposed by the foster care supervisor or assigned designee, the foster parent may appeal the decision to the local director by filing a written notice of appeal.

a. The notice of appeal shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and a copy of the foster care supervisor or assigned designee's findings or recommendations.

b. The notice of appeal shall be sent to the local director and must be received by the local director within 10 business days of the foster parent receiving the supervisor's response.

6. The local director shall hold a meeting between all parties within seven business days to gather any information necessary to determine (i) the validity of the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and (ii) the appropriateness of any recommendations for corrective action made by the family services specialist and foster care supervisor or assigned designee.

7. A summary of the meeting shall be documented in writing by the service worker after approval by the foster care supervisor or assigned designee.

8. Following such meeting and documentation, the local director shall issue to all parties written findings and, when applicable, recommendations for corrective actions.

C. The dispute resolution process set forth in subsection B of this section does not apply to a complaint related to the denial or failure of a local board to act upon an individual's claim for benefits. Complaints related to a claim for benefits shall be appealable pursuant to 42 USC § 671(a)(12) and 22VAC40-201-115.