



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	Virginia Department of Social Services
VAC Chapter Number:	22 VAC 40-690-10 et seq.
Regulation Title:	Virginia Child Care Provider Scholarship Program (formerly Child Day Care Scholarship Programs)
Action Title:	Amend entire regulation
Date:	April 18, 2001

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package.

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The regulation is being amended to accurately reflect the current scholarship program. The regulation originally was written for the administration of two scholarship programs. The Child Development Associate (CDA) Credential scholarship program was discontinued in 1995. The other scholarship program is the college tuition program and this program currently exists. The current regulation focuses on scholarships for courses taken at the community colleges and the proposed regulation addresses scholarships for courses taken at all Virginia public institutions of higher learning and Virginia private colleges and universities.

Two areas have been substantively changed since the proposed action was published. Program eligibility and course subject areas have been expanded. The final regulation allows all persons employed in child care programs in Virginia to be eligible to participate in the program. It also

allows the additional subject areas of child care administration and child care provider preparation and developmental courses to be included in the list of approved courses.

Changes Made Since the Proposed Stage

Please detail any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication. Please provide citations of the sections of the proposed regulation that have been altered since the proposed stage and a statement of the purpose of each change.

22 VAC 40-690-10 The definition of “course” was revised to include classes in the administration of child care programs and basic language, math, and science skills needed to positively impact the development of children. This change was made to better meet the needs of all child care providers by providing a continuum of education. The range of courses is appropriate for entry level positions through management.

22 VAC 40-690-30.B was revised to allow all employees of Virginia child care programs to be eligible to attend college in Virginia using scholarship funds. This change will allow employees of Virginia child care programs who were previously barred from participating in the program because they were not “domiciled” in Virginia to participate. This change has the potential of improving the quality of child care in Virginia for the greatest number of Virginia children and their families.

22 VAC 40-690-30.E was revised as the requirement of being “domiciled” in Virginia was eliminated for those employed in Virginia child care programs. This change was made in accordance with the program’s philosophy of paying for entire courses when possible as only paying for partial courses may not assist persons in attending college.

The wording of 22 VAC 40-690-30.H was revised to be consistent with the revised definition of “course.”

22 VAC 40-690-40.B was revised to reflect that the requirement of being “domiciled” in Virginia was eliminated for some groups of recipients. The institutions will be required to verify “domiciled” status for persons who are not employed in Virginia child care programs and to provide the department with the tuition rate category for all students who were awarded scholarships. These changes were made in accordance with changes made to 22 VAC 40-690-30.B.

The requirement of “verification of Virginia residency” has been removed from 22 VAC 40-690-55 because of changes in program eligibility and procedures.

22 VAC 40-690-65 was revised to address those persons who are newly covered in the program and are not eligible to receive in-state tuition rates. The change states that members of this group will have to pay any additional tuition and technology fees that exceed the total maximum lifetime award. The change was made in response to changes made in 22 VAC 40-690-30.B. It is prudent to offer these students access to formal education and the best way to do that is to pay for entire courses when possible. These students will not be able to receive eight fully paid

courses through the scholarship program, but will have the same amount of money to use toward their education.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

This final regulation was adopted by the State Board of Social Services on April 19, 2001.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law

This regulation exists to inform the public of the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. Section 63.1-25 of the Code of Virginia provides the Department with the authority to promulgate this regulation. The Code provides the State Board of Social Services with the authority to develop rules and regulations as may be necessary or desirable to carry out its work. The regulation is not required by federal or state law or regulation. Funding and eligibility information for the college tuition scholarship program is contained in Virginia's Appropriations Acts (Chapter 924 of the 1996-1998, Chapter 464 of the 1998-2000, and Chapter 1073 of the 2000-2002 Virginia Acts of Assembly) and the Child Care and Development Fund Plan that was submitted to the U.S. Department of Health and Human Services. Specifically, \$600,000 has been set aside each year to be used for scholarships for those who are currently employed or plan to become employed in a child care program for courses in early childhood education or related majors offered at state community colleges or state supported senior institutions of higher education. Currently, there is no mandate or formal funding set aside for scholarships for persons attending private college and universities.

The Office of the Attorney General has reviewed the final regulation and has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

This regulation establishes the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. The regulation is necessary for the public to be aware of the process for applying for a scholarship and so that the agency may use funds to award scholarships to current and future child care providers. The regulation is required to ensure the efficient and economical performance of this important governmental function. The amendments to the regulation will accurately reflect the current scholarship program and will remove any misconceptions by the public about the types and benefits of available scholarships.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

A large number of the changes contained in the proposed amended regulation have already been incorporated into the Department's procedures. Changes that are new to the regulation and procedure are:

- (1) The regulation requires additional criteria for being eligible for a scholarship. Recipients will not be able to have more than three occurrences of not registering for a course following receipt of a scholarship award, not completing a course, and not receiving passing final grades (proposed 22 VAC 40-690-30.B.3). The practice of awarding conditional awards for those in jeopardy of becoming ineligible for scholarships because they no longer meet the criteria has been added (proposed 22 VAC 40-690-30.D). These stipulations were added so that recipients can demonstrate responsibility and commitment and the stipulations create a more accountable program.
- (2) The stipulation that recipients who attended institutions of higher education other than community colleges could only receive up to the amount of community college tuition has been deleted (current 22 VAC 40-690-20.E and proposed 22 VAC 40-690-30.E and 22 VAC 40-690-30.I). All recipients are eligible to receive the same total monetary amount in scholarships. Recipients will be able to receive scholarships for more community college courses than for other institutions of higher learning as those colleges and universities have higher tuitions, which will consume scholarship funds at a faster rate.
- (3) A new section on appeals has been added (proposed 22 VAC 40-690-35).

(4) Proposed 22 VAC 40-690-40.B discusses requirements of those institutions that regularly receive scholarship funds. Currently, the Department only has agreements with the community colleges and this subsection now requires all who regularly receive scholarship funds to follow the same procedures for verification of domiciled Virginia residency, billing, and provision of final course grades. This subsection also changes the timing of the billing by the colleges and universities. No real effect on the institutions is expected. All colleges and universities are already determining domiciled Virginia residency. All community colleges are already providing the Department with recipient final grades, and most community colleges are already billing after the first class and probably after the official add/drop period (proposed 22 VAC 40-690-40.B). And

(5) Proposed 22 VAC 40-690-40.C discusses how courses will be paid for those institutions that have not entered into a written agreement with the Department.

Changes that are new to the regulation, but which have already been incorporated in the Department's procedures, are:

(1) 22 VAC 40-690-10 contains changes that have been removed because they are not needed for the operation of the scholarship program. The proposed regulation totally removes all language that pertained to the Child Development Associate Credential Scholarship Program as this program no longer exists (proposed 22 VAC 40-690-10 et seq.).

(2) Program eligibility has been expanded to allow more individuals to be eligible for the program (proposed 22 VAC 40-690-10 definitions of a child care provider and a child care program and proposed 22 VAC 40-690-30.B).

(3) The types of courses that can be included in the scholarship program have been expanded (proposed 22 VAC 40-690-10 definition of courses).

(4) The regulation has been revised to replace all references to "community colleges" with "Virginia public and private colleges and universities" (proposed sections: 22 VAC 40-690-10, 22 VAC 40-690-20.D, 22 VAC 40-690-20.E, 22 VAC 40-690-30.J, 22 VAC 40-690-40, and 22 VAC 40-690-65). This informs recipients that scholarship funds can be used for all types of Virginia based institutions of higher learning.

(5) The regulation states that applicants must select the courses they plan to take and verify that they are offered through their selected institution. No substitutions will be made for failure to follow this procedure (proposed 22 VAC 40-690-20.D and 22 VAC 40-690-20.E).

(6) Proposed 22 VAC 40-690-55 states how scholarship funds will be disbursed for both institutions that do and do not have agreements with the Department.

(7) Proposed 22 VAC 40-690-60 outlines the types of information the Department will maintain and specified retention. And

(8) Proposed 22 VAC 40-690-65 has been added, which outlines the responsibilities of the recipients.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the 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 include a sentence to that effect.

The public will benefit from the changes in the final regulation as it will be informed of the current process. The changes outlined in the regulation allow more people to use the scholarship funds at more Virginia institutions. The agency and Commonwealth will benefit by knowing that the regulation is updated and accurate. There are no disadvantages to the public, agency, or Commonwealth because of the changes made to the regulation.

Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

Two comments were received during the 60-day public comment period. The comments deal with program eligibility in the area of “domiciled” residency and funding of additional courses.

One commentator was concerned about denying access to scholarship funds to people who are not “domiciled” in Virginia, yet are living in Virginia and working in Virginia child care programs. This practice has a negative impact on the quality of care for Virginia’s children. Agency response: The final regulation has been revised in the area of program eligibility to allow all employees of Virginia child care programs to be eligible to participate in the scholarship program.

One commentator requested that developmental courses in areas such as reading, writing, and mathematics be added to the list of courses approved by the scholarship program. Two reasons were given for this recommendation. Child care providers play a large part in the development of the children for whom they provide care. Adults who do not operate on at least an eighth grade level are less likely to provide stimulating and exciting experiences for young children eight hours a day. Also, operating at such a low level increases the likelihood that they will act aggressively toward the children because they lack the tendency to problem solve and use alternative methods of communicating with children, parents, and co-workers. In addition, these developmental courses are prerequisites for some of the child care and child development courses that are included in the scholarship program and are often critical to the students’ success in college. Agency response: The final regulation has been revised to include preparatory or developmental courses in the areas of language, math, and science.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

Specifically, the following substantive changes are being proposed:

Current 22 VAC 40-690-10

The definitions for “CDA,” “Child Development Associate (CDA) credential,” “competency areas,” “Council for Early Childhood Recognition,” “evaluation process,” “family unit,” “income eligibility,” “preapproved,” and “registration and assessment fees” are being deleted as they pertain to the non-existent CDA scholarship credential program. The definition for “state approved program” is being deleted and replaced by “child care program,” which is inclusive of all child care programs, not only programs regulated by the Department.

The definitions of “career studies certificate in early childhood” and “foundation course” are being deleted because they are not referenced in the proposed regulation.

The definition for “applicant” is being amended by deleting the reference to the CDA program and incorporating the tuition scholarship program.

The definitions for “child care program,” “child care provider,” “colleges and universities,” “course,” and “department” have been added as they are referenced in the proposed regulation.

Proposed 22 VAC 40-690-15

The purpose and intent of the college tuition scholarship program was added. The purpose guides decisions when establishing criteria for awarding scholarships.

Current 22 VAC 40-690-20

Subsection C was deleted because the “certificate of income verification” pertained to the CDA scholarship program.

The part of current Subsection D that pertains to eligibility requirements is being deleted so that eligibility for the scholarship could be offered to anyone currently employed in or planning to become employed in a child care program as outlined in the Appropriations Act. The criterion that requires recipients to be currently working in a child care program remains, but was moved to 22 VAC 40-690-30.B. (Of note, proposed 22 VAC 40-690-30.B allows a recipient to be either currently employed or planning to become employed in a child care program.) The requirement to be “domiciled” in Virginia remains in part because persons who are not employed in Virginia

child care programs must meet this requirement along with other requirements to be eligible for this program.

Current Subsection E is being deleted because the practice of making only partial payment for courses at Virginia institutions other than community colleges is being discontinued. Currently, all scholarship awards regardless of the type of institution are the same amount, which is the community college in-state tuition rate. The change will allow for payment of the entire amount of the approved course tuition and technology fee up to the maximum lifetime monetary award at all Virginia public institutions of higher learning and all Virginia private for-profit and not-for-profit colleges and universities. The new process is contained in proposed 22 VAC 40-690-30.E and 22 VAC 40-690-30.I.

Current Subsections F and G (proposed Subsection C) are being revised to reflect the deadline for applications to be received by the Department from one month prior to the beginning of a course to the deadline that is indicated on the application form. The proposed revisions also state that only complete applications received by the application deadline will be considered.

Proposed Subsection D adds the requirement that applicants must verify that the courses for which they are interested in receiving a scholarship will be offered by the selected college or university for the designated semester. Failure to do this could result in scholarships that can not be used as outlined in 22 VAC 40-690-20.E.

Proposed Subsection E has been added that identifies the circumstances under which changes can be made to a selected course or institution.

Current 22 VAC 40-690-30

The current section on selection has been revised by deleting all of the criteria contained in the current regulation. Criteria related to the CDA scholarship program were removed. Other criteria were removed because they were unnecessary. Previously, criteria were established because not all who wanted to receive a scholarship were approved because of lack of funding. Currently, there is sufficient funding and it is projected that all who meet the proposed criteria will receive a scholarship.

Proposed Subsection A maintains the current requirement for the order in which applications will be processed and stipulates that awards will be made as long as funds are available.

Proposed Subsection B lists the criteria applicants must meet in order to be eligible to receive a scholarship. Applicants must: (1) be employed in Virginia child care programs or domiciled in Virginia and either currently employed in child care outside of Virginia or have declared an intent to work in a child care program, (2) select one or two Department approved courses that have not been paid for on his behalf, and (3) have an acceptable track record regarding grades and follow through on awards. Subsection C states that an applicant does not have to be enrolled in or have already taken a course in early childhood education or a related major to be eligible for a scholarship.

Subsections D through K have been added. Subsection D states conditions under which a scholarship will not be awarded and when conditional awards will be issued. Subsections E, F, and I outline the maximum program benefits. Subsection G has been added, which stipulates that scholarships can only be used for the semester and the individual that have been approved and Subsection J explains that recipient funds can be applied to more than one institution. Subsection H discusses how a course becomes eligible for scholarship funds. Subsection K states how applicants will be informed of acceptance or denial of their applications.

Proposed 22 VAC 40-690-35

A section has been added that provides for an appeal process for applicants when they are denied scholarships under certain circumstances.

Current 22 VAC 40-690-40

Subsection B is being revised. It states that the department and the institutions will enter into a written agreement and it lists the responsibilities of the colleges and universities for those institutions who regularly accept scholarship funds. These institutions will be responsible for certifying “domiciled” status for those students who are not employed in Virginia child care programs, informing the Department of the tuition rate category for each student it plans to bill the Department, following Department approved billing procedures, and providing the Department with recipient final course grades. The proposed changes in the billing procedure delay billing the Department until the official add/drop period closes, making reimbursements by the colleges and universities unnecessary. The change in proposed Subsection B makes current Subsection C unnecessary.

Proposed Subsection C discusses the process for those institutions that do not have a written agreement with the Department.

Current 22 VAC 40-690-50

This entire section is being deleted because it pertained solely to the CDA Scholarship program.

Proposed 22 VAC 40-690-55

This section has been added, which states how disbursements will be made.

Current 22 VAC 40-690-60 and 22 VAC 40-690-70

These two sections were combined and the requirements revised as needed. Current 22 VAC 40-690-60 contains wage verification that was required for those seeking a CDA credentialing scholarship. As this only pertained to CDA credentialing scholarships, this section is being deleted. Proposed material discusses types of information the Department will gather and maintain and the specified retention period.

Proposed 22 VAC 40-690-65

This section was added to list the responsibilities of the recipients. Specifically, recipients are responsible for providing the Department with final grades for courses paid by the scholarship program, participating in Department surveys relating to the scholarship program, and assuming responsibilities for some of the expenses relating to attending colleges and universities.

Forms

A list of required forms is contained in the regulation. The current regulation lists two forms. The “Virginia Child Care Provider Scholarship Program Certificate of Income Form” is being deleted as it solely pertained to the CDA scholarship program. The “Virginia Child Care Provider Scholarship Program Application Form” will remain.

Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which 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.

his regulation has a positive impact on Virginia families. It allows child care providers to increase their knowledge and skills in areas that are relevant to the care of children by allowing them to take college courses at a very low cost. Children in child care and their parents benefit by receiving care from providers who are expanding their knowledge and skills.

This program and regulation have no real effect on the authority and rights of parents in the education, nurturance, and supervision of their children. The expected outcome of child care providers obtaining additional education is that there is an increase in their skills and knowledge. Another outcome from attending courses related to child care would likely be increased knowledge and skills of the provider in working in partnership with parents, a theme emphasized in most child care courses. This could only support parents in their education, nurturance, and supervision of their children.

In the areas of economic self-sufficiency and self-pride, this program promotes and has as a likely outcome both increased self-sufficiency and self-pride. Increased education often leads to increased income. Success in academic pursuits improves one’s self-esteem. Frequently, students in child care courses receive emotional support from fellow students and their professors. Regarding assumption of responsibility for one’s family and oneself, the potential for an increased earning level and for acquisition of social interaction skills can have a positive effect on how scholarship recipients care for themselves and their families. As a long range potential effect, studies show that children in good child care typically do better in school and in their adult roles than do children in poorer care settings.

The regulation has no intended impact on marital commitment. If there should be any unintended impact, it should be positive in that the financial strains on the marriage might be lessened by an increase in the family's income because the child care provider's increased education and improved performance lead to a promotion or salary increase. In most instances, an increase in self-esteem would positively impact the marital relationship.

It is projected that the regulation will have a positive impact on the recipient's disposable family income. Increased knowledge and skills have the anticipated results of increased family income. It is quite possible that recipients' family income may increase as a result of attending college. It's possible that the family income of the recipients' customers could decrease because as quality of care improves, additional monies may be needed to retain a more qualified child care provider in his or her current position. If this were to occur, it should have a very small financial impact on families. Child care rates normally increase because of cost of living expenses, which is usually marginal. The immediate and long range benefits to children and their families for receiving care from a more qualified provider outweigh any small incremental increases in the cost of care.

In summary, this regulation is pro-family and promotes self-sufficiency, self-pride, and responsibility for oneself and one's family.