



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-705-10 et seq.
Regulation title	Child Protective Services
Action title	Comprehensive Review of 1998 Regulations
Document preparation date	October 20, 2004

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

Although changes have been made to the child protective services (CPS) regulations since their promulgation by the State Board of Social Services in 1998, the changes have largely dealt with the implementation of a differential response system. Recently questions have been raised about some of the requirements initiated in 1998, especially those related to investigation procedures. The Department's goal is to review all the regulations at his time in order to make any identified necessary changes in an organized and planful manner.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Section 63.2-217 of the *Code of Virginia* provides the authority and responsibility for promulgating child welfare regulations to the State Board of Social Services. Section 63.2-1503

instructs local departments of social services to staff CPS units and carry out the CPS program according to regulations adopted by the Board.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The Department is open to consideration of recommended changes to the CPS regulations. The section of the regulation that inspired the review as a result of a recent dispositional appeal is 40-VAC-705-80. This regulation relates to requirements for taping interviews during a CPS investigation. It appears from the results of a recent appeal case that this regulation needs to be changed or clarified. This raises issues about many of the regulations that have to do with the rights of alleged abusers, parents, and children and achieving the balance between regulatory requirements and worker resources. The Department has chosen to review all these issues with input from stakeholders before suggesting any changes to the Board.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

The alternatives would be to either propose changes to the particular section of regulation that applies to taping in order to clarify the use of taping in CPS investigations or to do nothing. However, to do nothing invites future appeals of dispositions and to address only this issue seems short sighted.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

Until the recommendations for changes to the CPS regulations are formulated, it is impossible to know what effect the proposed regulatory amendments may have on the family.