



COMMONWEALTH of VIRGINIA

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MEMORANDUM

TO: L. RICHARD MARTIN, JR.
Virginia Department of Social Services

FROM: ALLEN T. WILSON
Assistant Attorney General

DATE: August 5, 2008

SUBJECT: Repeal of 22 VAC 40-11-10 et seq.
Public Participation Guidelines
Final Regulation 22 VAC 40-12-10 et seq.
Model Public Participation Guidelines

I have reviewed the proposed repeal of 22 VAC 40-11-10 *et seq.*, Public Participation Guidelines. I also have reviewed the final regulation 22 VAC 40-12-10 *et seq.*, Model Public Participation Guidelines, which is being proposed to replace 22 VAC 40-11-10 *et seq.* I have reviewed these actions to determine if the proposed regulation exceeds the statutory authority of the State Board of Social Services (“State Board”).

It appears that the State Board has the authority to promulgate the final regulation, subject to compliance with the provisions of Article 2 of the APA, and has not exceeded that authority. The changes to the regulation are necessary to reflect the changes in Code by the adoption of Chapter 321 of the 2008 Acts of Assembly, which requires agencies to adopt model public participation guidelines. Pursuant to § 2.2-4006(A)(4)(a) of the Virginia Code, this action by the Board is exempt from the requirements of the APA.

If you have any questions, please feel free to call me at 786-0095.