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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-211
VAC Chapter title(s)	Foster and Adoptive Family Home Approval Standards
Action title	Implement Foster Parent Bill of Rights and Reenforce the Role of Foster and Adoptive Parents
Date this document prepared	August 17, 2022

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

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.

Chapter 336 of the 2019 Acts of Assembly (HB 2108) required the Department of Social Services (DSS) to promulgate regulations to ensure collaboration, communication, access, and transparency between the local boards, licensed child placing agencies (LCPA), and foster parents.

The regulatory action will require local boards and LCPA to provide foster parents with all reasonably ascertainable background, medical, and psychological records of the child prior to placement, all information relevant to the child's foster care services, and copies of all documents related to the foster parent, their family, and services provided to the foster home on an ongoing basis. Local boards and LCPA will be required to notify foster parents in a timely manner of all court hearings, scheduled meetings, and decisions made by the court, local board, or LCPA concerning the child's foster care service, and changes to the child's case plan or termination of the child's placement. The regulatory action will also mandate timely responses to requests for information regarding the child's progress after leaving foster care, if it is in the child's best interest. This regulatory action will set forth a dispute

resolution process through which a foster parent may contest an alleged violation by the local board or LCPA. The dispute resolution process will include an appeal process for the foster parent.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DSS – Department of Social Services

LCPA – licensed child placing agency

Statement of Final Agency Action

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.

The State Board of Social Services took final action on 22VAC40-211 Foster and Adoptive Family Home Approval Standards on August 17, 2022.

Mandate and Impetus

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.

There are no changes to previously reported information. The mandate for this regulatory action is a directive from the General Assembly. The second enactment clause of Chapter 336 of the 2019 Acts of Assembly required DSS to promulgate regulations related to a Foster Parent Bill of Rights and a formalized process for dispute resolution.

Legal Basis

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

Section 63.2-217 of the Code of Virginia authorizes the State Board of Social Services to adopt regulations as may be necessary to carry out the Title 63.2. Sections 63.2-21, 63.2-901.1, and 63.2-1734 provide the legal authority for the State Board of Social Services to adopt regulations for foster and adoptive home approval and child welfare agencies.

Purpose

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 is intended to solve.

This regulatory action will help protect the health, safety, and welfare of children in care by ensuring collaboration, communication, access, and transparency between the local boards, LCPA, and foster parents. The regulatory action will include a statewide process for dispute resolution through which a foster parent may contest an alleged violation by the local board or LCPA of a foster parent’s rights. The dispute resolution process promotes empowerment of foster parents as valuable members of the permanency planning team.

Substance

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.

The substantive changes include the addition of a new section implementing a foster parent bill of rights, as required by Section 63.2-902 of the Virginia Code, and the establishment of a statewide dispute resolution process that a foster parent may use to contest an alleged violation.

More specifically, the regulatory action provides additional oversight regarding the rights of foster and adoptive parents and transparency between the local boards, LCPA, and the foster parents. The changes reinforce the provider’s role as a member of the child welfare team and the expectation that the LDSS keep them informed on matters related to the child and which are essential in protecting the child’s health, safety and welfare.

Issues

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.

Previously, foster parents have not been parties to foster care cases. This will be the first time their roles will be officially established. Regulatory changes will benefit foster and adoptive parents by ensuring that their input and opinions are taken into consideration when determining appropriate services for children who are placed in their home. This will also allow for a more individualized approach to the child’s treatment plan. It will also increase the retention of approved homes by:

- Engaging foster and adoptive parents in a manner that will support positive interactions between agencies and caregivers.

- Endorsing a healthy and mutually cooperative relationship with foster and adoptive parents by eliminating employee/employer approach.
- Addressing issues upfront that could possibly lead to families no longer wanting to foster.
- Encouraging early intervention for foster families who may be struggling with their role and responsibilities.

Currently, agencies have no formal internal processes in place to address foster or adoptive parents' concerns. These changes will now require agencies to allot time in their challenging schedules to adhere to the timeframes outlined. The regulatory action also ensures appropriate conduct of agency staff when interacting with foster and adoptive parents to achieve more positive outcomes for children and reduce any potential barriers. Lastly, it ensures compliance with current regulations that require foster parent collaboration and input.

Requirements More Restrictive than Federal

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 would exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

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

There are no other state agencies particularly affected by this regulatory action.

Localities Particularly Affected

This regulation impacts LDSS. LDSS are located statewide and no individual locality will be particularly affected.

Other Entities Particularly Affected

This regulatory action will impact LCPA and foster parents.

Public Comment

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

No public comments were received following the publication of the previous stage.

Commenter	Comment	Agency response

Detail of Changes Made Since the Previous Stage

*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. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

No changes were made to the text since the previous stage was published in the Virginia Register of Regulations.

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements

Detail of All Changes Proposed in this Regulatory Action

*List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
n/a	130	n/a	<p>Adds new section implementing a foster parent bill of rights, as required by § 63.2-902 of the Virginia Code. Establishes a clear and concise statewide dispute resolution process that a foster parent may use to contest an alleged violation to the regulation.</p> <p>Provides additional oversight regarding rights of foster and adoptive parents which is specific to collaboration, communication, access, and transparency between the local boards, LCPA, and the foster parents. The regulation reinforces the provider's</p>

			role as a member of the child welfare team and the expectation that the LDSS disclose to them information related to the child which is essential in protecting the health, safety, and welfare of children.
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