



Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -201
Regulation title	Permanency Services – Prevention, Foster Care, Adoption and Independent Living
Action title	Establish New Permanency Services Regulation
Date this document prepared	June 17, 2009

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 36 (2006) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This is a joint action to repeal eight regulations and replace them with one comprehensive new Permanency Services regulation that will encompass the full range of services for providing a child with a safe home with his family or in the most family-like setting possible while maintaining family connections. The regulation incorporates provisions including: (1) how local departments of social services (LDSS) address the provision of services to prevent children from coming into foster care; (2) the process for assessing children entering foster care, establishing goals for those children, engaging in concurrent planning, and ensuring children are in the most appropriate and least restrictive placement; (3) development of service plans, service delivery, court hearings and case reviews, the provision of independent living services and the closing of foster care cases; and (4) adoption processes, adoption assistance and the putative father registry. In addition, the regulation requires LDSS workers and supervisors to attend training in accordance with Department of Social Services (DSS) guidance.

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., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The legal basis for this action is §§ 63.2-217 and 63.2-319 of the Code of Virginia (Code). Section 63.2-217 authorizes the State Board of Social Services (Board) to adopt regulations as may be necessary to carry out the mandated purposes of DSS. Section 63.2-319 directs LDSS to provide child welfare services. This regulatory action will provide a comprehensive structure for the provision of these services.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

This is a joint action to repeal eight regulations and replace them with one comprehensive new Permanency Services regulation that will encompass the full range of services for providing a child with a safe and secure living situation that supports family connections. Currently, regulations addressing permanency services for children are contained in eight different regulations which were promulgated at different times. Combining these regulations into one comprehensive regulation will ensure consistency in definitions and language and will limit the number of regulations individuals must use when addressing issues related to permanency services for children. Avoiding confusion related to the rules that apply to children and families in the child welfare system is essential to protect the health, safety and welfare of these children. This regulation is integral to Virginia’s compliance with federal child and family services program goals.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

One of the first sections of this regulation addresses the importance of providing services to prevent a child from having to enter the foster care system. It also emphasizes inclusion of the child, birth parents, and significant individuals in the child’s life in the decision making process by including them in the initial assessment and development of goals and service plan.

The regulation requires a concurrent planning process to help ensure timely permanence for a child if an initial goal, such as return home, cannot be achieved. The regulation requires a reassessment of the child and the effectiveness of services provided to him and his birth parents or prior custodian in three months if the child’s goal is to return home. This is a change from current practice, which is a reassessment of children in foster care every six months.

The regulation includes language requiring monthly visits to children in foster care at least once each calendar month; this reflects a current federal mandate. The regulation requires initial and annual in-service training for foster care and adoption workers and supervisors. DSS has offered training for foster care service workers for over 10 years through contracts with Virginia Commonwealth University (VCU) and through other venues. Training has been mandated for child protective services workers, but it has not been mandated for foster care and adoptive workers until now.

Issues

Please identify the issues associated with the proposed regulatory action, 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The primary advantages of this regulation include: (1) rules are provided that attempt to keep children from entering the foster care system and that support returning them to their homes or finding another permanent home for them as quickly and safely as possible; (2) it supports best practices that address children's health, safety, and need for family connections while they are in foster care; and (3) it supports a well trained workforce.

Combining the eight existing regulations into one comprehensive regulation will ensure consistency in definitions and language and will limit the number of regulations individuals must use when addressing issues related to permanency services for children. Avoiding confusion related to the rules that apply to children and families in the child welfare system is essential to protect the health, safety and welfare of these children. This regulation is integral to Virginia's compliance with federal child and family services program goals.

There are no disadvantages to the public posed by this regulation. Of concern to the LDSS are (1) the costs associated with visiting children monthly; (2) increasing the number of individuals participating in the planning process; and (3) increasing the number of re-assessments for some children.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements in this regulatory action that are more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This regulation will impact all LDSS; it is not anticipated that it will have a disproportionate impact on any one LDSS. The implementation of new program requirements is, by nature, more difficult for small LDSS that have workers who manage more than one program.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to other comments, the Board is seeking comments regarding the costs and benefits of the proposed regulatory action and the potential impacts on the regulated community. The Board is seeking information on the impact of this regulatory action on small businesses as defined in § 2.2-4007.1. Information sought includes the (1) projected reporting, recordkeeping and other administrative costs; (2) probable effect of the regulation on affected small businesses; and (3) less intrusive or costly alternative methods of achieving the purpose of the regulation.

Membership on the workgroup that developed the regulation included: Joni Baldwin, Division of Licensing, DSS; Susan Clark, Director, Galax Department of Social Services; Gary Cullen, Division of Family Services, DSS; Denise Dickerson, Division of Family Services, DSS; Donna Douglas, Director, Hanover Department of Social Services; Robin Ely, Division of Licensing, DSS; Lynette Isbell, Commissioner’s Office, DSS; Phyl Parrish, Division of Family Services, DSS; Allison Rothschild, Chesterfield Department of Social Services; Vernon Simmons, Division of Family Services, DSS; Tamara Temoney, Division of Family Services, DSS; Libby Vinsh, Petersburg Department of Social Services; Carol Wilson, Office of Comprehensive Services; Therese Wolf, Division of Family Services, DSS.

Comment on the regulation was also requested from members of the Child Welfare Advisory Committee (CWAC). The regulation was discussed at two CWAC meetings. Members of CWAC, excluding DSS staff, include: 26 individuals from LDSS; 16 individuals from state agencies or organizations including the Commission on Youth, the Department of Health, the Court Improvement Project of the Virginia Supreme Court, and the Department of Criminal Justice Services; Judge Nelson Durden from the Hampton Juvenile Court; the Poverty Law Center; two county attorneys; Wilma Vance, a foster parent; four representatives from FACES, the foster parent association; and several other individuals from non-profit organizations.

Anyone wishing to submit written comments may do so by mail, email, or fax to Phyl Parrish, 7 North Eighth Street, Richmond, Virginia 23219, phone number 804-726-7926, fax number 804-726-7895, email address phylparrish@dss.virginia.gov. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by the last date of the public comment period.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures	The total projected cost to the state for State Fiscal Year (SFY) 10 is \$8,198,379 (\$1,188,765 in federal funds, \$5,738,865 in general funds and \$1,270,749 in local funds). The total projected cost for SFY 11 is \$7,526,156 (\$1,091,293 in federal funds, \$5,268,309 in general funds and \$1,166,554 in local funds).
Projected cost of the regulation on localities	The total projected cost for LDSS for SFY 10 is \$1,270,749 and for SFY 11 is \$1,166,544.
Description of the individuals, businesses or other entities likely to be affected by the	This regulation impacts 120 LDSS.

regulation	
Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	This regulation impacts 120 LDSS. It does not have an impact on small businesses.
All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.	There is no fiscal impact on entities other than the LDSS addressed above.

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

This regulation does not impact small businesses. There is no viable alternative to this regulatory action. It is very burdensome for LDSS and DSS to work with eight separate regulations related to foster care prevention, foster care, and adoption. Each of the eight regulations must be regularly reviewed and updated to ensure consistency with frequently changing federal and state law.

Child welfare sections of the Code require the Board to develop regulations that address specific issues. These mandated regulations provide authority for policy and guidance developed by DSS. It will be much less burdensome on all parties to have all regulations pertaining to foster care and adoption in one regulation.

Regulatory flexibility analysis

Please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation does not impact small businesses. It provides guidance for LDSS in addressing the needs of children and families who have come into contact with the foster care and adoption programs of the child welfare system.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

There were no comments received during the public comment period for the NOIRA.

Commenter	Comment	Agency response

Family impact

Please assess the impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

This regulation is intended to provide rules for LDSS in addressing the needs of children and families who come into contact with the foster care and adoption programs of the child welfare system.

The LDSS first makes reasonable efforts to keep a child in his home by providing needed services to the family or custodian. The regulation addresses the provision of those prevention services, and when the health and safety concerns for a child has resulted in the removal of a child from his home, the regulation provides requirements for the provision of services to strengthen the capacity of the family to care for their child so the child can be returned home.

The regulation also addresses the provision of services to children and families when the children were not removed from their homes, but were entrusted by their parents or custodians to LDSS. This regulation provides the rules for LDSS to follow both when the goal is to keep a family intact and when returning a child to their family is not in the child's best interest. The regulation supports the child's lifelong connections to family and/or other caring adults and maintains the authority and rights of parents whenever possible.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current	Proposed	Current requirement	Proposed change and rationale
---------	----------	---------------------	-------------------------------

section number	new section number, if applicable		

This is a comprehensive new regulation that will replace eight regulations.

Section 10: Definitions of terms used in the regulation.

Section 20: Foster care prevention services – This section requires LDSS to provide services to prevent the need for children to enter the foster care system. It states that any services available to a child in foster care shall also be available to a child and his birth parents or custodians to prevent foster care placements. It requires that services shall be provided based on an assessment of needs and that documentation shall be maintained of the services provided and the reasons such support and services were not sufficient to maintain the child in his home.

Section 30: Entering foster care – This section describes how a child may enter the foster care system through a court commitment, entrustment agreement, or non-custodial foster care agreement and provides details on entrustment agreements and non-custodial foster care agreements. This includes that the entrustment agreement shall specify the rights and obligations of the child, birth parent or custodian, and the child-placing agency, and that entrustments shall not be used for educational purposes, to make the child eligible for Medicaid, or to obtain mental health treatment. It also states that a temporary entrustment agreement may be revoked by the birth parent, custodian or child-placing agency prior to the court’s approval of the agreement and that a permanent entrustment agreement shall only be entered into when, after counseling about alternatives to permanent relinquishment, the parties all agree that voluntary relinquishment of the parental rights and placement of the child for adoption are in the child’s best interest. The regulation requires that when a child-placing agency has accepted a child through a permanent entrustment agreement, the agency will make diligent efforts to ensure the timely finalization of the adoption. The regulation addresses how a child may be placed in foster care through a non-custodial agreement where the birth parent or custodian retains custody while the LDSS assumes care and placement responsibilities for the child. This agreement is at the request of the parent or custodian when there is agreement that it is in the child’s best interest and the permanency goal is to return home. This type of agreement is subject to the cooperation of the birth parent or custodian and the child. A non-custodial agreement must be submitted to the court within 60 days of the child’s entry into foster care and all foster care requirements must be met.

Section 40: Foster care placements - This section requires the LDSS to ensure children are placed in licensed or approved homes or facilities that comply with all federal and state requirements for safety, and that these placements are made in accordance with § 63.2-901.1. It lists the following requirements that must be met when placing a child in a licensed or approved facility: (1) the LDSS shall make diligent efforts to locate and assess relatives as foster homes; (2) the child shall be placed in the least restrictive, most family-like setting consistent with the child’s needs; and, (3) diligent efforts shall be made to place a child with siblings. The regulation requires that the LDSS attempts to place the child close to his prior home to facilitate visitation with the birth parents or custodian and provide continuity of connections for the child. The regulation prohibits denying or delaying placement based on race, color or national origin and provides that the LDSS, when placing a child of Native American heritage, follow federal laws if the child is a member of a federally recognized tribe and contact the Virginia Council on Indians and consider tribal culture and connections if the child is of Virginia Indian heritage. The regulation requires that the service worker visit a home prior to placing a child to make sure the placement will be safe and meet the needs of the child. It allows that in an emergency the visit can take place the same day as the placement. The regulation requires that family homes meet standards established by the Board and are approved by a child-placing agency and that group homes or residential facilities be licensed and the licensure status of the facility be verified before a child is placed. There are requirements that the LDSS notify and consult with other LDSS if a child is being placed or moving to a neighboring jurisdiction and that there be approval from the state office on the Interstate Compact on the Placement of Children when a child is being placed out of state. The regulation addresses decision making related to changes in the placement

of a child to ensure that there is input from relevant parties and notification of changes to relevant parties where such input and notification is in the best interest of the child.

Section 50: Initial foster care placement activities - This section requires that information on every child in foster care be entered into DSS' automated child welfare system. It also requires that the child be referred for all financial benefits for which he may be eligible and that the child also receive a medical examination within 30 days of the initial placement and that he receive checkups in accordance with the Department of Medical Assistance Services' (DMAS) periodicity chart. The regulation provides that if conditions indicate, a medical exam should be provided within 72 hours. As relates to school attendance, the regulation requires that the service worker enroll the child in school as soon as possible but no more than 72 hours after placement and the child's desire to remain in his previous school shall be considered and allowed when it is in the child's best interest. The service worker, in cooperation with relevant parties, is required to coordinate the school placement.

Section 60: Assessment - This section requires that an initial assessment of a child be conducted within guidelines developed by DSS but shall not exceed 30 calendar days of acceptance of the child into foster care. It requires that the assessment be conducted in a manner that respectfully involves the child and birth parents or prior custodians, giving them a say in what happens to them. It requires that decision making shall include input from children, birth parents or prior custodians and other interested individuals. The regulation requires the use of the permanency planning indicator tool during the initial assessment and the selection of a specific goal and secondary goal. It requires that when a child was removed from his home due to abuse or neglect, the initial assessment shall include a summary of the Child Protective Services' (CPS) safety and risk assessments. Other components of the initial assessment are: (1) a comprehensive social history, (2) a financial assessment, and (3) a determination of the service needs of the child, birth parents or prior custodians and other interested individuals. The regulation requires the service worker to enter the appropriate information into the DSS automated child welfare system and refer relevant individuals for appropriate services. The regulation requires that there be a reassessment and determination of the effectiveness of the services or need for additional services at least every three months for a child whose goal is to return home and at least every six months for as long a child remains in foster care.

Section 70: Foster care goals – This section addresses the foster care goals which are established to assure permanency planning for children. The regulation lists the goals in order of priority and requires that documentation of lower ranking goals must explain why all higher ranking goals were not selected. The goals listed are: (1) return custody to parent or custodian; (2) transfer custody to a relative other than prior family; (3) adoption; (4) permanent foster care; (5) independent living; and (6) another planned permanent living arrangement. The regulation requires that when the permanency goal is changed to adoption, the LDSS shall file petitions with the court 30 days prior to the hearing to approve the new plan changing the goal to adoption and to terminate parental rights. To encourage reunification with the family or adoption and to make permanent foster care the choice of last resort, the regulation provides that the goal of permanent foster care only be considered for children 14 and older in accordance with DSS guidance. When the goal is transition to independent living, the regulation requires that the LDSS shall provide services pursuant to DSS guidance. It also provides that the goal of another planned permanent living arrangement may be chosen when the court has found the child to have a profound and chronic emotional, physical, or neurological disabling condition and will require long-term residential care for the condition. The regulation provides that the permanency goals be considered and addressed from the beginning of placement and continuously evaluated.

Section 80: Service plans – This section requires that there be a current service plan for every child in foster care and that the plan have been developed through a shared decision-making process between the LDSS; the child; the birth parents or prior custodians; the foster, adoptive or resource parents and any other interested individuals, with a focus on safety and permanence for the child. It requires the plan to specify the assessed permanency goal and, when appropriate, the concurrent permanency goal. The regulation requires the service plan to be written in a timely manner after the completion of the assessment and to directly reference how the strengths identified in the foster care assessment will support the plan and the identified needs including the concurrent permanency goal. The regulation also

requires that a plan for visitation with the birth parents or prior custodians, siblings, grandparents, or other interested individuals be developed and presented to the court as part of the service plan unless such visitation is not in the best interest of the child.

Section 90: Service Delivery – This section requires that permanency planning services to children and birth parents or prior custodians be delivered as part of a total system with cooperation, coordination, and collaboration occurring among children and youth, birth parents or prior custodians, service providers, the legal community and other interested individuals. It requires timely notification and full disclosure to parents, birth parents and prior custodians of the establishment of a concurrent permanency goal when indicated and the implications of concurrent planning. The regulation further requires timely notification of placement changes, meetings and assessments and responsiveness to the requests of the child and birth parents or prior custodians to ensure all parties understand what is happening and why and to ensure their participation in decision making. The regulation requires that services be provided until an assessment indicates they are no longer necessary and that the services provided to achieve concurrent planning shall be provided to support achievement of both goals. It provides that services may be provided to extended family and other interested individuals. The regulation addresses monthly visits by workers to children in foster care to ensure compliance with federal legislation. It requires that all children in foster care have a monthly face-to-face contact with an approved case worker at least once per calendar month and that the majority of the visits be in the child's place of residency. The regulation requires that supportive services be provided to foster, adoptive, and resource parents and that the LDSS shall enter into a placement agreement developed by DSS that includes, at a minimum, a code of ethics and mutual responsibilities for all parties. Foster, adoptive and resource parents shall be given full factual information about the child and shall be contacted by a service worker as often as needed in accordance with 22 VAC 211-100 and shall also be given appropriate sections of the foster care service plan. The regulation provides that, if needed, services to stabilize the placement may be provided on an emergency or planned basis. The regulation states that DSS shall make a contingency fund available to provide reimbursement to foster and resource parent for damages caused by the foster child contingent on the availability of funds.

Section 100: Providing independent living services - This section provides that a youth in foster care (working with a team that the youth helped assemble) shall have input into identifying needed services. The regulation provides that independent living services may be provided to all youth ages 14 to 18 and may be provided until the youth reaches age 21. The regulation identifies types of services that may be provided including education, daily living skills, transportation, and developing permanent connections with adults. The regulation requires the LDSS to assess the youth's skills and incorporate the assessment results into the youth's service plan. The regulation provides that a youth who was placed in foster care prior to the age of 18 may continue to receive services until age 21 if he participates in developing a service agreement with the LDSS and signs the service agreement; the LDSS approves the youth's living arrangement; the youth cooperates with all services; and, the youth is making progress in an educational or vocational program, has employment, or is in a treatment or training program; or, is in permanent foster care. The regulation also provides that a youth, age 16 or older, is eligible to live in an independent living arrangement and may receive an independent living stipend pursuant to guidance developed by DSS. It also states that any person who was committed or entrusted to a child-placing agency and who chose to discontinue independent living services after age 18, but prior to age 21, may request a resumption of those services within 60 days of the discontinuation. The regulation requires the LDSS to assist eligible youth in applying for educational and vocational financial assistance and the LDSS to review the service plans for youth over 18 who are receiving independent living services every six months to assure the effectiveness of the services.

Section 110: Court hearings and case reviews – This section requires the LDSS to file petitions in accordance with the type of hearing and to obtain and consider the child's input as to who should be included, and explain to the child in a manner consistent with the child's developmental and psychological status, the reasons someone they suggested may not be present. The regulation requires an explanation to the court of the reasonable efforts that have been made to achieve concurrent permanency goals in those cases where a concurrent goal has been identified. The regulation also requires an administrative panel review be held six months after a permanency planning hearing when the goals of adoption,

permanent foster care, or independent living have been approved by the court unless the court requires more frequent hearings. It requires the child to have administrative panel reviews or review hearings every six months until a final order of adoption is issued or the child turns 18. The regulation requires all relevant parties to be invited as appropriate and that the recommendations made during the review be considered in planning services and that all interested parties, including those not in attendance, be given a copy of the results of the review. The regulation requires that a supervisory review is required every six months for youth ages 18 to 21.

Section 120: Funding – This section states that it is the responsibility of the LDSS to establish a foster child's eligibility for federal, state or other funding and that state pool funds shall be used for a child's maintenance and service needs when other funding sources are not available. It also states that the assessment and provision of services to the child and birth parents or prior custodians shall be made without regard to the funding source. The regulation states that LDSS shall reimburse foster or resource parents for expenses paid by them when pre-authorized or if not pre-authorized, if the LDSS deems the expenses are appropriate. It requires that eligibility for Title IV-E shall be re-determined annually or upon a change in situation in accordance with federal law and DSS guidance. It also states that the service worker is responsible for providing the eligibility worker information required for the annual re-determination of Medicaid eligibility and information related to the child's situation.

Section 130: Closing the foster care case – This section provides that the foster care case is closed when the child turns 18, when the court releases the child from custody prior to age 18, or when a voluntary entrustment agreement has expired, been revoked, or has been terminated by the court. When the case is closed, the record is retained in accordance with the record retention schedules of the Library of Virginia. The regulation also provides that any youth who has reached age 18 has the right to request information from his records.

Section 140: Other foster care requirements – This section addresses several requirements not relevant to previous sections but related to foster care. The regulation provides that a director of a LDSS may grant approval for a child to travel out-of-state and out-of-country and that the approval must be in writing and maintained in the child's file. It provides that a foster or resource parent may consent to a marriage or entry into the military if the child was placed with them through a permanent foster care agreement which has been approved by the court. The regulation states that an employee of a LDSS, including a relative, cannot serve as a foster, adoptive or resource parent for a child in the custody of that LDSS. The employee can be a foster, adoptive or resource parent for another LDSS or the child's custody may be transferred to another LDSS. This is current policy and is a requirement of § 2.2-3109 of the Code which prohibits a personal interest in contracts with the agency. The regulation also provides that the child of a foster child remains the responsibility of his parent unless custody has been removed by the court; however the needs and safety of the child shall be considered and documented in the service plan of his parent. It provides that the child of the foster child is eligible for maintenance payments, services, Medicaid and child support services in accordance with federal law and guidance developed by DSS. The regulation provides that when a child in foster care is committed to the Department of Juvenile Justice, the LDSS no longer has custody or placement and care responsibility for the child. As long as the discharge or release plan for the child is to return to the LDSS prior to reaching age 18, the LDSS shall maintain a connection with the child in accordance with DSS guidance.

Section 150: Adoption Resource Exchange of Virginia (AREVA) – This section describes the purpose and services provided by AREVA. The purpose is to increase opportunities for children to be adopted by providing services to child-placing agencies having custody of these children. The services provided include maintaining registries of children awaiting adoption and approved parents waiting to adopt; preparing and distributing photo-registries of children with special needs waiting to be adopted and potential parents awaiting placement of a child with special needs; providing information and referral services to adoption resources; providing on-going adoptive parent recruitment efforts; providing consultation and technical assistance to child-placing agencies; and, monitoring LDSS' compliance with legal requirements, guidance and policy on registering children and parents. The regulation states that child-placing agencies shall comply with all of the AREVA requirements.

Section 160: Adoption assistance – This section requires that an adoption assistance agreement be executed for a child who has been determined eligible for adoption assistance and that the LDSS use the form developed by DSS. The regulation states that for a child to be eligible for adoption assistance he must meet the definition of a child with special needs (set out in definitions in section 10) and meet the following criteria: (1) be under 18 years of age; (2) be in the placement and care of a child-placing agency at the time the petition for adoption is filed; and (3) be placed by a child-placing agency with the prospective adoptive parents for the purpose of adoption, except for those situations in which the child has resided for 18 months with the foster or resource parents who file a petition for adoption under § 63.2-1229. The regulation sets out the types of adoption assistance for which a child may be eligible. These are Title IV-E, State adoption assistance, or Conditional adoption assistance, which is when payments and services are not needed at the time of adoption but may be needed later, and the child's foster care expenses were paid from state funds. The regulation also provides that adoption assistance payments shall be negotiated with the adoptive parents, taking into consideration the needs of the child and the circumstances of the family; however, income shall not be the sole factor and family and community resources shall be explored to help defray the costs of adoption assistance. The regulation sets out the three types of payments which shall be made on behalf of an eligible child. Those include (1) a payment for nonrecurring expenses which are based on actual costs, not to exceed \$2,000; (2) a maintenance payment (except for those children for whom conditional assistance will be provided); and (3) a special service payment. The regulation provides that maintenance payments cannot exceed the maximum foster care board rate and cannot be reduced below the initial amount specified without the concurrence of the adoptive parents or a reduction in the Appropriation Act and that increases to maintenance payments shall be made when the child is receiving the maximum allowable foster care board rate and either the child reaches a higher age grouping or statewide increases are approved. The regulation states that a special services payment is used to help meet the child's physical, mental, emotional, or non-routine dental needs and must be directly related to the child's special needs or day care. Special service payments shall be time limited, based on the needs of the child. The regulation requires that the special service payments be negotiated with the family and be contained in a separate agreement. The regulation also provides that when a child is determined eligible for adoption assistance prior to the adoption being finalized, the agreement shall be executed within 90 days of receipt of the application and shall specify the amount of payment and shall be signed before the final order of adoption. The agreement shall remain in effect regardless of the state to which the adoptive parents may relocate. This regulation requires that procedures for the child whose eligibility for adoption assistance is established after the finalization of the adoption are the same as those which are established prior to a finalization except that the application shall be submitted within one year of the diagnosis of the condition that establishes the child as a child with special needs. The regulation also requires adoptive parents to annually submit an adoption assistance affidavit. The LDSS is responsible for notifying the adoptive parents that the affidavit is due. The regulation states that adoption assistance is terminated when the child reaches the age of 18 unless the child has a condition which warrants the continuation. In such cases adoption assistance may continue until age 21. The regulation provides that adoption assistance may not be terminated prior to the child's 18th birthday without the consent of the parents unless it is determined the child is no longer receiving financial support from the adoptive parents or the adoptive parents are no longer legally responsible for the child. The regulation states that LDSS are responsible for informing adoptive parents, in writing, of their appeal rights which include failure of the child-placing agency to provide full factual information regarding the child prior to adoption finalization; failure of the LDSS to inform the adoptive parents of the child's eligibility for adoption assistance; and, decisions made by the child-placing agency related to the child's eligibility for adoption assistance, adoption assistance payments, services and changing or terminating adoption assistance.

Section 170: Child-placing agency's responsibilities for consent in non-agency adoptive placements – This section provides that, at the request of the juvenile court, the child-placing agency shall conduct a home study that includes the elements in § 63.2-1231 and that the report to the court shall make a recommendation regarding the suitability of the parents to adopt. The regulation requires that if the child-placing agency suspects there has been an exchange of property, money, services, or any other thing of value, in violation of law in the placement or adoption of the child, they shall report such findings to the Commissioner of DSS for investigation.

Section 180: Fees for court services – This section provides that the LDSS, in accordance with guidance provided by DSS, shall charge fees for court ordered custody investigations, adoption searches, non-agency placement adoptions, investigations and reports, and visitation and reports.

Section 190: Virginia Putative Father Registry – This section provides that DSS shall establish and maintain a putative father registry. It also states that a search of the Putative Father Registry shall be conducted for all adoptions except when the child has been adopted according to the laws of a foreign country or when the child was placed in Virginia from a foreign country for the purpose of adoption. The regulation requires that any petitioner who files a petition for termination of parental rights or for an adoption proceeding shall request a search of the Putative Father Registry and that the certificate of search and finding must be filed with the court before an adoption or termination of parental rights proceeding can be concluded.

Section 200: Training – this section requires that LDSS foster care and adoption workers and supervisory staff shall attend and complete initial and annual in-service training in accordance with guidance developed by DSS and that those staff shall complete an individual training needs assessment using a method developed by DSS.