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## Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department (Board) of Juvenile Justice
<b>Virginia Administrative Code (VAC) citation</b>	6VAC35-60
<b>Regulation title</b>	Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs
<b>Action title</b>	Comprehensive review of regulation to amend and clarify application of the regulation as determined through a periodic review
<b>Date this document prepared</b>	May 15, 2008

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*.

### 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.*

The Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs, 6VAC35-60, establishes the general requirements for recipients of grant funding under the Delinquency Prevention and Youth Development Act (Chapter 3 of Title 66 of the Code of Virginia). The Delinquency Prevention and Youth Development Act requires the Director of the Department of Juvenile Justice to develop and supervise delinquency prevention and youth development programs and authorizes the director to make grants to counties and cities to support their delivery of youth services and their response to juvenile delinquency. The Board of Juvenile Justice is also required to develop regulations to govern the application for grants and the operation of programs funded under the Act. This regulation addresses the responsibilities and administration of Youth Services Citizen Boards and also sets minimum standards for the administration of Offices on Youth; addressing community needs assessments, planning, personnel and operations, fiscal management, and program monitoring and evaluation.

While the Delinquency Prevention and Youth Development Act has not been funded by the General Assembly in recent years, on several occasions localities have requested funding to be reinitiated. Should the Act be funded, any applicable grant recipient would be subject to the regulation. A number of administrative changes have occurred since 2002 when the regulation was most recently amended. Thus, during the periodic review period, the regulation was reviewed in light of current practices, in

consultation with local offices on youth, and in consideration of future grant recipients. The proposed changes will incorporate current practice into the existing framework.

**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.*

The Board of Juvenile Justice is entrusted with general authority to promulgate regulations by §66-10 of the Code of Virginia that states the Board may “promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department.” Additionally, §66-28 of the Code of Virginia requires the Board of Juvenile Justice to “prescribe policies governing applications for grants pursuant to this chapter and standards for the operation of programs developed and implemented under the grants.”

**Need**

*Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

The regulation applies to all recipients of grants funded through the Delinquency Prevention and Youth Development Act. The focus of the regulation is to promote the effective and efficient delivery of services appropriate for addressing the community’s needs as determined through assessments and delivered through evidence-based practices. Maintaining consistency across localities serves the public safety and individual and family wellness goals of reducing delinquency and enhancing youth development. Revisions are needed to update certain regulatory provisions to reflect administrative changes appropriately and to promote best practices.

**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.*

The regulation will be reviewed and modified to ensure that it supports the goals of the Delinquency Prevention and Youth Development Act, which are “to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency.” An advisory committee has been convened by the department with individuals representing the department and locally operated offices on youth.

The Department (Board) of Juvenile Justice, through the advisory committee, intends to continue the review commenced during the periodic review process and anticipates the following changes:

- **Part III, Article 1:** This article is titled “General Requirements of Direct Service Programs and Services.” However, this title may be incorrect as funding often is utilized for indirect programs or services. The committee will review whether this title should be changed, especially in light of the fact that the same title is used for Part V, Article 3.
- **Part III, Article 1, 6VAC35-60-170** (Implementation of strategies): The regulation requires an annual plan; but the governing statute requires an annual plan update, not an annual plan. The committee has discussed whether having the plans under the regulation coincide with the state’s two-year budget process would be more appropriate and more efficient. The committee will review whether to define and operationalize an annual plan update per the statutory requirements and require a comprehensive biennial plan to be prepared in accordance with the state’s biennial budget process.
- **Part III, Article 2, 6VAC35-60-180** (Director): Section 215 of the regulation dictates staffing requirements for recipients of grant funding and provides local policy or advisory boards, along with locality leaders, with the authority to establish an office that meets the unique needs of the locality. In addition to this requirement, section 180 requires a paid full-time director regardless of whether grant funding would be adequate to support a paid full-time director. The committee will review whether this requirement should be removed in light of the staffing requirements in 6VAC35-60-215.
- **Part III, Article 2, 6VAC35-60-236** (Volunteer background check) **and 6VAC35-60-237** (Employee background check). These sections contain two different provisions for volunteer and employee background checks. The committee is reviewing whether volunteers and staff should have the same requirements if providing services to youth, whether in a group or individual setting. Additionally, this section will be reviewed in light of legislative activity regarding background check requirements for individuals working directly with children.
- **Part III, Article 4, 6VAC35-60-330** (Budget submission). This section requires an annual budget submission. The committee will review whether to align the budget requirement with a two-year plan and the state’s two-year budget process. The committee will consider whether this change would reduce the administrative burden on these programs.
- **Part III, Article 5** (Monitoring and evaluation). This article requires the director to distribute copies of any monitoring review and requires each program to be evaluated for effectiveness. The committee will review whether the section should cross-reference sections of the Board of Juvenile Justice’s regulation governing the certification process, 6VAC35-20.
- **Part IV, 6VAC35-60-450** (Needs assessment contents). This section requires a four-year needs assessment process, with one of four components reviewed every four years. The committee is reviewing whether it is realistic to have a four-year needs assessment process given that funding is not on that same cycle and whether the four-year review should be updated or reworded to align with the two-year comprehensive plan and the state’s budget process. The committee will determine whether to keep the four-year cycle for updating and how often each component will need to be reviewed in each planning period.
- **Part V, Article 3, 6VAC35-60-575** (Applicability of nonresidential standards). This section cross-references applicable Board of Juvenile Justice’s regulation governing nonresidential standards, 6VAC35-150. The non-residential standards have been reviewed and updated since 2002. The regulation will be amended to reflect any applicable changes.

## 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. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

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As part of the revision process, the department assessed whether any of the needed changes, clarifications, or updates can be accomplished through additional guidance documents or training rather than revising the regulatory provisions. The conclusion was reached that reviewing and amending the current regulation is the only practicable alternative for addressing certain issues identified during the periodic review of this regulation.

## Public participation

*Please indicate the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.*

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The agency is seeking comments on the intended regulatory action, including but not limited to: 1) ideas to assist in the development of a proposal; 2) the costs and benefits of the alternatives stated in this background document or other alternatives; and 3) potential impacts of the regulation. The agency is also seeking information on impacts on small businesses as defined in §2.2-4007.1 of the Code of Virginia. Information may include: 1) projected reporting, recordkeeping, and other administrative costs; 2) probable effect of the regulation on affected small businesses; and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments may do so by mail, email, or fax to Patricia Rollston, Legislative Analyst. By mail at: P.O. Box 1110, Richmond, Virginia 23218-1110; via telephone at: (804) 786-4184; by facsimile at: 804-371-0773; or via electronic mail at: [patricia.rollston@djj.virginia.gov](mailto:patricia.rollston@djj.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 day of the public comment period.

A public hearing will not be held.

## Participatory approach

*Please indicate, to the extent known, if advisers (e.g., ad hoc advisory committees, technical advisory committees) will be involved in the development of the proposed regulation. Indicate that 1) the agency is not using the participatory approach in the development of the proposal because the agency has authorized proceeding without using the participatory approach; 2) the agency is using the participatory approach in the development of the proposal; or 3) the agency is inviting comment on whether to use the participatory approach to assist the agency in the development of a proposal.*

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The agency is using a participatory approach to amend this regulation and has already organized an advisory committee, the members of which have communicated on several occasions to review the regulation. The committee consists of representatives from the Department of Juvenile Justice, local offices on youth, and the Board of Juvenile Justice. On technical issues, the agency may consult with experts.

**Family impact**

*Assess the potential 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 regulatory action should have a positive impact on families when members receive services through any grant-funded program or service. To the extent the regulation improves those services or promotes health and safety in those services, they should have a positive impact on families. When funding is allocated and grants are made available, the regulation will serve to bolster family relationships and communities given the focus to prevent delinquency and promote youth development. The regulation is not expected to have any impact on disposable family income.

**Periodic review – Public comment**

*If this NOIRA is the result of a periodic review, please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and (2) indicate whether the regulation meets the criteria set out in Executive Order 36, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

Commenter	Comment	Agency response

No comments from the public were received during the periodic review’s public comment period.

The regulation continues to meet the criteria set out in Executive Order 36 in that it is necessary for the protection of public health, safety, and welfare. However, amendments are necessary for the regulation to be more clearly written and more easily understandable.

**Periodic review – Discussion**

*If this NOIRA is the result of a periodic review or if the periodic review is to be performed in combination with the NOIRA, please include a discussion of the agency’s consideration of: (1) the continued need for the rule; (2) the complexity of the regulation; (3) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (4) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the agency’s*

*determination whether the regulation should be amended or repealed, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.*

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The regulation of this process continues to be necessary as it is mandated by § 66-28 of the Code of Virginia. The regulation governs the responsibilities and administration of Youth Services Citizen Boards and also sets minimum standards for the administration of Offices on Youth; addressing community needs assessments, planning, personnel and operations, fiscal management, and program monitoring and evaluation and is marginally complex. Amendments are necessary for the regulation to be more clearly written and more easily understandable. Additionally, amendments are necessary to reduce administrative burden and have the regulation coincide with current practice and evidence-based programs. This regulation has been in effect since 1990 and was most recently amended in 2002. The amendment does not overlap or conflict with state law or regulation. It is duplicative only to the extent necessary to implement the components of the Delinquency Prevention and Youth Development Act (Chapter 3, Title 66 of the Code of Virginia). The Act has not been funded in recent years. Thus, no grants have been made and no offices on youth are subject to the regulation. In the intervening years, the practice in the offices that continue to function through alternative funding streams has changed minimally and the proposed changes seek to conform to these changes. Thus, the Board of Juvenile Justice initiated this NOIRA after a periodic review was conducted on the regulation in accordance with the applicable statute and executive order.