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Proposed Regulation Agency Background Document

Agency name	Department of Criminal Justice Services
Virginia Administrative Code (VAC) Chapter citation(s)	6 VAC 20-160
VAC Chapter title(s)	Regulations Relating to the Court-Appointed Special Advocate Program (CASA)
Action title	Comprehensive Review and Update of CASA Requirements
Date this document prepared	06/13/2024

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.

The Department of Criminal Justice Services (DCJS) is amending 6 VAC 20-160 to modify and update the requirements for the Court-Appointed Special Advocate program. This regulatory action makes technical amendments to all regulatory sections, updates and clarifies language, eliminates unnecessary requirements, and adds additional responsibility under governing boards at the local level for CASA programs throughout the Commonwealth. This action will also serve as a periodic review of the regulation itself, as one has not been completed in some time.

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.

DCJS: Department of Criminal Justice Services
CJSB: Criminal Justice Services Board, DCJS' policy board
Department: Department of Criminal Justice Services
Board: Criminal Justice Services Board
CASA: Court-Appointed Special Advocate
CJA: Children's Justice Act

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

The current regulation and requirements for the CASA program were last updated in 2013. Although no recent Acts of Assembly mandate the regulatory changes associated with this action, the proposed amendments are promulgated under the Department's ongoing statutory authority to administer the CASA Program and adopt regulations necessary and appropriate for its operation pursuant to § 9.1-151(A) of the Code of Virginia. DCJS contends that this action is necessary in order update and enhance language, eliminate redundancy and requirements that are no longer applicable, and make technical amendments throughout the existing regulatory sections within 6 VAC 20-160. DCJS sought and obtained formal Board approval from the CJSB to open a Notice of Intended Regulatory Action on October 12, 2023, and after working collaboratively with the State Network Leadership Team and the CASA CJA Advisory Committee, the revisions to the regulatory text were unanimously approved by the Board on June 13, 2024.

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.

The Department of Criminal Justice Services (DCJS) is the promulgating agency responsible for administering the Court-Appointed Special Advocate (CASA) program and promulgating regulations governing its operation. Specific authority for the administration and regulation of the CASA program is provided in § 9.1-151(A) of the Code of Virginia, which establishes the program within DCJS and expressly directs that "the Department shall adopt regulations necessary and appropriate for the administration of the program." This provision serves as the primary statutory authority for DCJS to regulate the CASA throughout the Commonwealth.

DCJS' general regulatory authority is provided through the Criminal Justice Services Board. Pursuant to § 9.1-102 of the Code of Virginia, the Board is authorized to establish regulations and standards for programs and activities administered by DCJS. Additionally, § 9.1-106 grants the Board authority to adopt such regulations as may be necessary to carry out the provisions of Title 9.1 and other laws administered by the Department. Together, §§ 9.1-102, 9.1-106, and 9.1-151 provide both the general and specific

statutory authority for the promulgation and administration of regulations governing the Court-Appointed Special Advocate Program.

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.

The Court-Appointed Special Advocate (CASA) program plays a critical role in Virginia's child welfare system by providing trained volunteer advocates to assist courts in cases involving children who are alleged to be abused, neglected, in need of services, or in need of supervision. CASA volunteers serve as independent advocates for the best interests of children involved in judicial proceedings and help courts make informed decisions regarding their safety, permanency, and well-being.

This regulatory action is necessary because the regulation has not undergone a comprehensive review and update in approximately 15 years. During that time, statutory changes, evolving program practices, and operational needs have resulted in provisions that are outdated, inconsistent with current law, or unnecessarily burdensome. The proposed amendments were developed with the guidance and expertise of the Virginia CASA Program State Network Leadership Team and the Court-Appointed Special Advocate/Criminal Justice Act Advisory Committee to ensure that the regulation accurately reflects current statutory requirements and program operations. The regulatory changes are essential to protect the health, safety, and welfare of Virginia's citizens, particularly the vulnerable children served by local CASA programs. By ensuring that regulations governing the recruitment, training, supervision, and operation of CASA programs are current, clear, and consistent with statutory requirements, the Department can better support the effective delivery of advocacy services to children involved in abuse, neglect, and related court proceedings. Maintaining an effective and accountable CASA system helps ensure that children's needs, safety concerns, and best interests are appropriately represented before the court.

The goals of this regulatory action are to update and clarify regulatory language, eliminate obsolete or unnecessary requirements, improve consistency with current law and practice, and enhance the overall administration of the CASA Program. These changes are intended to resolve ambiguities, reduce administrative inefficiencies, and provide clearer guidance to local CASA programs while preserving the high standards necessary to support the protection and welfare of children throughout the Commonwealth. Additionally, the proposed amendments retain program standards and practices that have proven effective and are widely recognized within the court-appointed special advocate community, while removing references that tie compliance to membership, affiliation, or participation with standards for National CASA Association (NCASAA) member programs. This approach allows the regulation to maintain established best practices while ensuring that regulatory requirements are based on standards adopted by the Commonwealth rather than those of an external entity.

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.

Substantive changes to the regulation are the update and clarification of language to ensure continuity in training and volunteer requirements, as well as the elimination of unnecessary or overly burdensome requirements. DCJS' Programs and Services Division worked diligently with the State Network Leadership Team and the CASA CJA Advisory Committee and ultimately agreed upon all of the recommended updates and revisions. A thorough review and update to the provisions of this regulation last occurred approximately 15 years ago, so this is a welcomed update for CASA programs across the

Commonwealth. The proposed amendments remove the requirement that local CASA programs comply with the Standards for National CASA Association (NCASAA) Member Programs. This change is intended to eliminate a regulatory requirement that relies upon standards established and maintained by an external private organization. During the periodic review process, DCJS determined that regulatory requirements governing Virginia CASA programs should be based upon standards and expectations established through state law and regulation rather than continued incorporation by reference to the membership standards of the national association. The removal of this provision provides greater regulatory clarity and ensures that compliance obligations are determined by the Commonwealth while preserving those program requirements and operational practices that DCJS has determined remain necessary to support effective advocacy services for children.

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.

This regulation's primary advantage is to safety and well-being of the various citizens of the Commonwealth of Virginia, as well as the juveniles and special populations local CASA programs serve. It also provides additional efficiency for judges and courts throughout Virginia that employ such programs. The comprehensive review to this regulation is welcomed update for all parties involved in all jurisdictions. There are no known issues or disadvantages to the Commonwealth by implementing the proposed revisions to this regulation.

Requirements More Restrictive than Federal

Identify and describe any requirement of the regulatory change which is more restrictive than applicable federal requirements. Include a specific citation for each applicable federal requirement, and 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 specific statement to that effect.

There are no known requirements of this proposed regulatory change that are more restrictive than applicable federal requirements, as there are none.

Agencies, Localities, and Other Entities Particularly Affected

Consistent with § 2.2-4007.04 of the Code of Virginia, identify any other state agencies, localities, or other entities particularly affected by the regulatory change. Other entities could include local partners such as tribal governments, school boards, community services boards, and similar regional organizations. "Particularly affected" are those that are likely to bear any identified disproportionate material impact which would not be experienced by other agencies, localities, or entities. "Locality" can refer to either local governments or the locations in the Commonwealth where the activities relevant to the regulation or regulatory change are most likely to occur. If no agency, locality, or entity is particularly affected, include a specific statement to that effect.

Other State Agencies Particularly Affected

No other known state agencies are particularly affected.

Localities Particularly Affected

There will be no direct effects on localities as a result of these regulatory changes.

Other Entities Particularly Affected

The revisions made to the regulatory text of 6 VAC 20-160 will only impact jurisdictions utilizing CASA programs within their court system(s)- there are 27 throughout the Commonwealth.

Economic Impact

Consistent with § 2.2-4007.04 of the Code of Virginia, identify all specific economic impacts (costs and/or benefits) anticipated to result from the regulatory change. When describing a particular economic impact, specify which new requirement or change in requirement creates the anticipated economic impact. Keep in mind that this is the proposed change versus the status quo.

Impact on State Agencies

<i>For your agency:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including: a) fund source / fund detail; b) delineation of one-time versus on-going expenditures; and c) whether any costs or revenue loss can be absorbed within existing resources.	There are no projected costs, savings, fees, or revenues resulting from this regulatory change, as CASA programs already assume responsibilities for adhering to these requirements as independent organizations.
<i>For other state agencies:</i> projected costs, savings, fees, or revenues resulting from the regulatory change, including a delineation of one-time versus on-going expenditures.	N/A
<i>For all agencies:</i> Benefits the regulatory change is designed to produce.	N/A

Impact on Localities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a or 2) on which it was reported. Information provided on that form need not be repeated here.

Projected costs, savings, fees, or revenues resulting from the regulatory change.	
Benefits the regulatory change is designed to produce.	

Impact on Other Entities

If this analysis has been reported on the ORM Economic Impact form, indicate the tables (1a, 3, or 4) on which it was reported. Information provided on that form need not be repeated here.

Description of the individuals, businesses, or other entities likely to be affected by the regulatory change. If no other entities will be	There is no additional impact on any individuals, businesses, or other entities as a result of this regulatory change.
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affected, include a specific statement to that effect.	
Agency's best estimate of the number of such entities that will be affected. Include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated, and; b) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.	N/A
All projected costs for affected individuals, businesses, or other entities resulting from the regulatory change. Be specific and include all costs including, but not limited to: a) projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the regulatory change; c) fees; d) purchases of equipment or services; and e) time required to comply with the requirements.	N/A
Benefits the regulatory change is designed to produce.	Although there are no monetary-associated benefits, this regulation's primary advantage is to safety and well-being of the various citizens of the Commonwealth of Virginia, as well as the juveniles and special populations local CASA programs serve. It also provides additional efficiency for judges and courts throughout Virginia that employ such programs. The comprehensive review to this regulation is welcomed update for all parties involved in all jurisdictions.

Alternatives to Regulation

Describe any viable alternatives to the regulatory change that were considered, and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the regulatory change. 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 regulatory change.

DCJS does not have any viable alternatives to the regulatory changes and updates being proposed. Updating language and requirements that have not been revised in approximately 15 years are neither burdensome nor intrusive and will not add any financial burden to small businesses, as defined in § 2.2-4007. On the contrary, it will make training and requirements for CASA volunteers across the Commonwealth more cohesive and efficient.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Regulatory Flexibility Analysis

Consistent with § 2.2-4007.1 B of the Code of Virginia, 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) establishing less stringent compliance or reporting requirements; 2) establishing less stringent schedules or deadlines for compliance or reporting requirements; 3) consolidation or simplification of compliance or reporting requirements; 4) establishing 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 regulatory change.

There are no 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 businesses, because they are not affected by this regulation. This is further detailed in Table 1.

If this analysis has been reported on the ORM Economic Impact form, indicate the tables on which it was reported. Information provided on that form need not be repeated here.

Periodic Review and Small Business Impact Review Report of Findings

If you are using this form to report the result of a periodic review/small business impact review that is being conducted as part of this regulatory action, and was announced during the NOIRA stage, indicate whether the regulatory change meets the criteria set out in EO 19 and the ORM procedures, e.g., is necessary for the protection of public health, safety, and welfare; minimizes the economic impact on small businesses consistent with the stated objectives of applicable law; and is clearly written and easily understandable. In addition, as required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) 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, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

This regulatory action is being used to conduct a comprehensive review and update, as well as a periodic review, as one has not been conducted in some time. This change meets the criteria set out in EO 19 and is necessary, for the aforementioned reasons, for the cohesiveness and efficiency of CASA programs, which ultimately leads to the protection of public health, safety and welfare. There is no economic impact on small businesses consistent with applicable law. The agency has demonstrated a clear continued need for the regulation.

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.

Commenter	Comment	Agency response
N/A	N/A	N/A

Public Participation

Indicate how the public should contact the agency to submit comments on this regulation, and whether a public hearing will be held, by completing the text below.

The Department of Criminal Justice Services is providing an opportunity for comments on this regulatory proposal, including but not limited to (i) the costs and benefits of the regulatory proposal, (ii) any alternative approaches, (iii) the potential impacts of the regulation, and (iv) the agency's regulatory flexibility analysis stated in that section of this background document.

Anyone wishing to submit written comments for the public comment file may do so through the Public Comment Forums feature of the Virginia Regulatory Town Hall web site at: <https://townhall.virginia.gov>. Comments may also be submitted by mail, email or fax to Kristi Shalton, 1100 Bank St, Richmond, VA 23219, (804)786-7801, Kristi.shalton@dcjs.virginia.gov. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

A public hearing will not be held following the publication of this stage of this regulatory action.

Detail of Changes

List all regulatory changes and the consequences of the changes. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. 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. Use all tables that apply, but delete inapplicable tables.

If an existing VAC Chapter(s) is being amended or repealed, use Table 1 to describe the changes between the existing VAC Chapter(s) and the proposed regulation. If the existing VAC Chapter(s) or sections are being repealed and replaced, ensure Table 1 clearly shows both the current number and the new number for each repealed section and the replacement section.

Table 1: Changes to Existing VAC Chapter(s)

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of new requirements
6VAC20-160-10	N/A	Definitions- The regulation contains several outdated references, terminology, and program requirements that have not been	Updates terminology, definitions, and regulatory language throughout the chapter. Makes the regulation easier to understand and ensures consistency with

		comprehensively reviewed in approximately 15 years.	current statutes, CASA practices, and agency operations. No significant impact on program operations is expected.
6VAC20-160-20	N/A	CASA Program Governance- CASA programs must comply with the Standards for National CASA Association (NCASAA) Member Programs. Governance requirements are currently limited.	Ensures that regulatory compliance is determined by standards established through the Commonwealth's regulatory process rather than by a private national organization. Local CASA programs will continue to operate under state requirements and DCJS oversight. Expands governance provisions to address governing boards, advisory councils, board orientation, fiduciary responsibilities, and representation of communities served. Provides clearer expectations for program oversight and accountability while promoting effective governance practices. Requires members to have knowledge of nonprofit governance. Replaces the current requirement for board member orientation to include certain information about Virginia's CASA program with a requirement to include this information about the local CASA program.
6VAC20-160-30	N/A	Recordkeeping and monitoring- Recordkeeping requirements primarily focus on maintaining case records and reporting information to DCJS.	Adds requirements for record retention, return of case materials, and destruction of electronic case information upon case closure. Strengthens protection of confidential information and promotes consistent record management practices across local CASA programs.
6VAC20-160-40	N/A	Program and Personnel Policies- Program policies are addressed in limited areas.	Removes the requirement to comply with NCASAA member standards and instead relies on Virginia statutes, regulations, and DCJS-approved requirements Requires CASA programs to maintain written policies covering volunteer supervision, complaints, confidentiality, case assignment, child

			visitation expectations, and other operational functions. Improves consistency among local programs and ensures that key operational practices are documented and regularly reviewed. Removes the requirement that local CASA programs comply with the Standards for NCASAA. Removes the prohibition to concurrently supervise children from the courts or other child serving agencies. Requires written policies to be reviewed every four years. This is not a new requirement because the NCASAA standards currently require it. Reduces the staff to volunteer ratio from 30 to 25 volunteers to accommodate the increased complexities of cases coming to court- many programs already report using this ratio currently. Requires CASA programs to develop certain human resources, personnel, and financial management policies. These are among the essential policy requirements from national standards incorporated into the regulation (13 in total). Requires CASA programs and volunteers to file a CASA report in accordance with statute. This is already a requirement in order to operate within the courts, but adding this language to the regulatory text provides additional clarity.
6VAC20-160-50	N/A	Case assignment- Personnel and human resource requirements are	Establishes minimum personnel policy requirements, including onboarding, performance reviews, grievance procedures, social media policies,

		not comprehensively addressed in regulation. Financial management requirements are not specifically addressed.	whistleblower protections, and crisis communications. Promotes sound organizational management and provides clearer expectations for staff and volunteers. Strengthens fiscal accountability and supports responsible stewardship of public and private funding.
6VAC20-160-60	N/A	CASA Volunteer duties and responsibilities- CASA volunteer duties are currently described in general terms.	Revises the section to align volunteer duties directly with statutory requirements found in § 9.1-153 of the Code of Virginia. Improves consistency between regulation and statute and clarifies volunteer responsibilities.
6VAC20-160-70	N/A	Confidentiality- Existing confidentiality provisions are less detailed.	Clarifies what information volunteers may share, with whom information may be shared, and when releases of information are required. Protects sensitive information while providing clearer guidance to volunteers and programs.
6VAC20-160-80	N/A	Changes Code of Ethics to Professional Conduct- Professional conduct provisions are currently limited.	Clarifies that volunteers may not provide direct services that could create conflicts of interest or inappropriate dependency relationships with families. Reinforces the advocacy role of CASA volunteers and helps avoid conflicts or liability concerns.
6VAC20-160-90	N/A	Qualifications- Several provisions use permissive language ("should")	There are no substantial changes in this section, only language to enhance clarification. Changes certain provisions to mandatory language ("shall" or "must") where the requirement is intended to be mandatory.

			Improves clarity and consistency regarding regulatory expectations and compliance requirements.
6VAC20-160-100	N/A	Changes to Screening and Application Process for Volunteers- Volunteer screening requirements focus primarily on applications, interviews, and background checks.	Reorganizes and clarifies volunteer screening requirements and adds requirements for national sex offender registry checks and criminal history checks in jurisdictions where applicants live and work. Strengthens volunteer screening and promotes child safety while maintaining existing background investigation practices.
6VAC20-160-110	N/A	N/A	Repeals previously redesignated section, but no additional changes to this section.
6VAC20-160-120	N/A	Pre-Service Training- Training requirements currently reference NCASAA training curricula.	Replaces references to NCASAA curricula with training curricula approved by DCJS and updates training content requirements. Maintains training standards while placing responsibility for curriculum approval with DCJS rather than a national organization.
6VAC20-160-130	N/A	Adds new section titled In-service Training- In-service training requirements are currently included within the pre-service training section.	Creates a separate section for annual in-service training requirements and clarifies expectations for continuing education. Improves organization and readability of the regulation without substantially changing training obligations.

If a new VAC Chapter(s) is being promulgated and is not replacing an existing Chapter(s), use Table 2.

Table 2: Promulgating New VAC Chapter(s) without Repeal and Replace

New chapter-section number	New requirements to be added to VAC	Other regulations and laws that apply	Change, intent, rationale, and likely impact of new requirements

If the regulatory change is replacing an **emergency regulation**, and the proposed regulation is identical to the emergency regulation, complete Table 1 and/or Table 2, as described above.

If the regulatory change is replacing an **emergency regulation**, but changes have been made since the emergency regulation became effective, also complete Table 3 to describe the changes made since the emergency regulation.

Table 3: Changes to the Emergency Regulation

Emergency chapter-section number	New chapter-section number, if applicable	Current <u>emergency</u> requirement	Change, intent, rationale, and likely impact of new or changed requirements since emergency stage