



***COMMONWEALTH of VIRGINIA***  
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**MEMORANDUM**

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

**FROM:** ALLEN T. WILSON  
Assistant Attorney General

**DATE:** April 13, 2004

**SUBJECT:** Proposed Regulation 22 VAC 40-661-10 et seq.  
Child Care Program

I have reviewed the above-referenced proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations to carry out the provisions of Title 63.2, including the administration of the child care program, which is funded by the federal government through the Child Care and Development Fund ("CCDF"). Furthermore, the Code of Federal Regulations in 45 C.F.R. 98.11 requires the promulgation of regulations governing the administration of the state program using CCDF funds. It appears that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 21 (2002), and has not exceeded that authority.

If you have any questions, please feel free to call me at 225-3219.