



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-141
Regulation title	Licensing Standards For Independent Foster Homes
Document preparation date	February 18, 2009

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 36 (2006) and 58 (1999).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., agency, board, or person.

Section 63.2-217 of the Code of Virginia (Code) authorizes the State Board of Social Services to adopt and enforce regulations to carry out the purposes of Title 63.2 of the Code. Sections 63.2-1701, 63.2-1817, 63.2-1734, 16.1-278.2, 16.1-278.4, and 16.1-278.8 mandate licensure of child welfare agencies, except those that meet the exemptions contained in §§ 63.2-1715 through 63.2-1718. Independent foster homes are included in the definition of child welfare agencies and are required to be licensed in order to operate.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

Currently, there are only two independent foster homes licensed in the Commonwealth. Placements in these homes can be made by a child's parents or guardians without the intervention of a licensed child-placing agency (LCPA) or local department of social services (LDSS). An alternative to the having a separate regulation for only two independent foster homes is to have these homes covered under the regulations for the approval of foster homes used by LCPA and LDSS. This alternative would eliminate a separate regulation maintained for a very limited number of homes that should have the same comprehensive health, safety, and welfare protections as foster homes approved by LCPA or LDSS.

Elimination of a regulation will be a cost benefit for the Commonwealth. This alternative will require legislative action that will be pursued at a later date.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
<p>Lesia D. Butler, Jeru Family Healing Center, Inc.</p>	<p>As the state agenda concerning the care and treatment for children is being redirected towards the usage of community based servicing, the need for more independent foster care homes appears to be of paramount importance. As an organization founded and located within the community, we can directly anticipate and respond rapidly to the servicing requirements of our children while focusing treatment goals to care for them. With this community focused approach it may no longer be necessary to send a child to an expensive corporate treatment facility out of the local area which is one of the main barriers to family reunification and success. Another factor to consider is the financial accessibility for families who wish to prevent their children from entering into the social services system. Often times, private care families in crisis cannot afford any treatment other than what insurance providers may accept or what Medicaid can cover. The cost effectiveness of an independent foster home organization directly correlates to daycare services. Modification of 22 VAC 40-141-10 definitions section: At present, foster care services in local jurisdictions are perplexed as to placement protocols of an independent foster home organization. As it stands, the currently worded definition of the</p>	<p>These comments will be considered during any future action taken with the regulation.</p>

<p>Lesia D. Butler, Jeru Family Healing Center, Inc. (continued)</p>	<p>organization does not specifically outline that children from the local departments of social services (foster care and adoption services) are allowed to place children within the organization. As such, we are limited at whole or in part to providing respite care services because of this gap in definition and understanding. Furthermore, the definition of "placement agreement" doesn't allow for the agreement to be entered into by the local department of social services agents in the sections of adoption or foster care. Additionally, foster care services in local jurisdictions have questionable time deciding upon funding sources allowed for our organization. Local Family Assessment Planning Teams (FAPT) would like to utilize independent foster homes as a community based placement, but the definition as it now stands doesn't address our status as a community based resource. Reference 22 VAC 40-141-87 part G: A gray area concerning the current regulation definition and interpretation deals with the time accumulation of treatment for a child. At present, when a child is serviced by an independent foster home, that time is continuously accumulated even if the child is discharged and has a subsequent replacement service at a later time. Service discharge should carry with it a termination of services. For example, if a child or family in crisis is serviced for a period of six months and meets all discharge and treatment requirements, the regulation at present prevents possible respite care services in the future for the family without referring the child over to social services for evaluation. Within that example, respite care services for one weekend out of a month for a period of three months could</p>	<p>These comments will be considered during any future action taken with the regulation.</p>
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<p>Lesia D. Butler, Jeru Family Healing Center, Inc. (continued)</p>	<p>mean the difference in preventing another crisis for that family. There are private families who desire to take and manage the responsibility of their child and or family in crisis at no expense to the county. This is significant because private families who are in brief crisis periods may desire to prevent their child from entering the social services system.</p>	<p>These comments will be considered during any future action taken with the regulation.</p>
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No informal advisory group was formed for the purpose of assisting with the periodic review. Child welfare agencies, the licensed independent foster homes and interested parties were contacted by email for comment.

Effectiveness

Please 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.

This regulation is essential to protect the health, safety, and welfare of children receiving foster care services from independent foster homes. The current regulation is written in language understandable for regulators and licensed independent foster homes.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The Department of Social Services recommends that the regulation be retained in the current form without any changes until such time as legislative action is taken.

Family impact

Please provide an analysis of the regulation’s impact on the institution of the family and family stability.

This regulation allows families to place their children in independent foster homes without the intervention of a LDSS or LCPA unless the parents or guardians request help with funding the placement. It promotes family self-sufficiency and self-problem solving because the families themselves have the opportunity to select a temporary placement option that best meets their needs. The regulation provides a minimum level of protections for children.