

22 VAC 15-10-10 et seq. PUBLIC PARTICIPATION GUIDELINES

PART I.

GENERAL PROVISIONS.

22 VAC 15-10-10. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Administrative Process Act (APA)" means Chapter 1:1:1 (§ 9-6.14:1 et seq.) of Title 9 of the Code of Virginia.

~~"Agency" means Department of Social Services.~~

~~"Approving authority" means Child Day Care Council.~~

"Commissioner" means the Commissioner of the Department of Social Services or his designee.

"Council" means Child Day-Care Council.

"Department" means Department of Social Services.

~~"Division" means the organizational entity within the department, designated by the commissioner, which develops regulations subject to the Administrative Process Act.~~

"Governor's Executive Order" means any policy or procedure issued by the Governor under § 2.1-41.1 or § 9-6.14:9.1 A of the Code of Virginia establishing the administrative policy and procedures for gubernatorial review and regulatory actions governed by the Administrative Process Act.

"Person" means an individual, a corporation, a partnership, an association, a governmental body, a municipal corporation, or other legal entity.

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22 VAC 15-10-20. Application.

These guidelines apply to all regulations promulgated by the council.

PART II.

PUBLIC PARTICIPATION.

22 VAC 15-10-30. General.

A. The procedures in 22 VAC 15-10-50 shall be used for soliciting the input of interested persons in the initial formation and development, amendment or repeal of regulations in accordance with the Administrative Process Act. This chapter does not apply to regulations exempted or excluded from the provisions of the Administrative Process Act (§ 9-6.14:4.1 of the Code of Virginia).

B. The council and department shall follow the policies and procedures established by the Administrative Process Act and the Governor's Executive Order in developing emergency, proposed and final adoption, amendment or repeal of regulations.

C. At the discretion of the ~~approving authority or the agency~~ council, the public participation procedures in 22 VAC 15-10-50 may be supplemented to provide additional public participation in the regulation adoption process or as necessary to meet federal requirements.

D. The failure of any person to receive any notice or copies of any documents provided under these guidelines shall not affect the validity of any regulations otherwise adopted in accordance with this chapter.

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22 VAC 15-10-40. Petitions from interested parties.

Any person may petition the ~~agency~~ council or department to develop a new regulation or to adopt, amend or repeal a regulation. The petition, at a minimum, shall contain the following information:

1. Name of petitioner;
2. Petitioner's mailing address and telephone number;
3. Petitioner's interest in the proposed action;
4. Recommended new regulation or addition, deletion, or amendment to a specific regulation or regulations;
5. Statement of need and justification for the proposed action;
6. Statement of impact on the petitioner and other affected persons; and
7. Supporting documents, as applicable.

The ~~agency~~ council or department shall provide a written response to such petition and shall notify the other entity.

22 VAC 15-10-50. Solicitation of Input.

A. ~~Each division of the agency~~ The department shall establish and maintain a list or lists consisting of persons expressing an interest in the adoption, amendment or repeal of regulations under its administration, management or supervision. Persons may request the addition of their name and address to the list at any time. The lists will be updated as additional interested parties are identified. Deletions will be made when lack of interest is determined by the ~~division~~ department as a result of periodic contact initiated by the ~~division~~ department.

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B. The ~~department~~ council may form an ad hoc advisory group or utilize a standing advisory committee to assist in the drafting, formation or review of a proposal when expertise is necessary to address a specific regulatory interest or issue, or when persons register an interest in the subject of the regulation and in working with the agency council.

C. Whenever a ~~division~~ council identifies a need for the adoption, amendment or repeal of regulations under its ~~administration, management or supervision~~ authority, it may commence the regulation adoption process according to these procedures.

D. The ~~agency~~ council shall issue a Notice of Intended Regulatory Action (NOIRA) which describes the subject matter and intent of the planned regulation for all regulatory proposals in accordance with the Administrative Process Act. The NOIRA shall state whether the ~~agency~~ council intends to hold a public hearing.

E. The commissioner shall disseminate the NOIRA to the public by:

~~1-~~distribution to the Registrar of Regulations for publication in The Virginia Register; ~~and,~~

F. The council shall disseminate the NOIRA to the public by

~~2-~~distribution by mail to parties on the list established under subsection A of this section.

~~F.G.~~ The ~~agency~~ council shall consider public comment in drafting proposed regulations.

~~G.H.~~ Upon approval by the council of the proposed regulations ~~prepared by the department~~, the ~~department~~ commissioner shall solicit public comment through:

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~~1-~~distribution to the Registrar of Regulations for publication in The Virginia Register;

I. The council shall solicit public comment on proposed regulations through:

~~2-1.~~ Publication of a Notice of Comment Period in a newspaper of general circulation published at the state capital and such other newspapers as the department may deem appropriate; and

~~3-2.~~ Distribution of a notice of comment by mail to persons on the list or lists established under subsection A of this section.

22 VAC 15-10-60. Public hearings.

A. The council shall permit public comment concerning the adoption, amendment, or repeal of a regulation submitted for its promulgation during the council's regularly scheduled public comment period of its authorized meetings in conformity with the established rules of the council. The council may allow public comment about a proposed regulation at a committee meeting when the proposed regulation is under consideration by the committee.

B. When the NOIRA states that the ~~agency~~ council does not plan to hold a hearing on the proposed regulation, the ~~agency~~ council shall schedule a hearing when it determines that there is sufficient public interest in a proposed regulation through receipt of requests for a hearing from 25 people or more. The hearing or hearings may be held at any time during the public comment period and at such times and locations as the ~~department~~ council decides will best facilitate input from interested persons.

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22 VAC 15-10-70. Withdrawal of regulations.

If the ~~agency~~ department determines that the process to adopt, amend or repeal any regulation should be terminated after promulgation of the proposed regulation by the ~~approving authority~~ council, the ~~agency~~ department shall present a recommendation and rationale for the withdrawal of the proposed regulation to the ~~approving authority~~ council.