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Regulatory
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Proposed Regulation Agency Background Document

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6 VAC35-60
Regulation title	Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs
Action title	Comprehensive Review of Regulation to amend and clarify application of the regulation as determined through a Periodic Review
Date this document prepared	

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*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

This regulation was last reviewed in 2002, and, since then, a number of administrative changes have occurred. This regulation was reviewed in light of current practices, in consultation with local offices on youth, and in consideration of future grant recipients (as the Virginia Delinquency Prevention and Youth Development Act is currently not funded by the General Assembly). An advisory committee was convened by the Department with individuals representing the department personnel and locally operated offices on youth. The regulation was reviewed and modifications were recommended to ensure that the regulation 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.” The proposed changes will also 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., the 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 which 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.”

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

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 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 funding, 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.

The proposed amendments to this regulation will protect the health, safety, and welfare of citizens by streamlining processes and promoting uniformity throughout the Commonwealth. The proposed amendments will reduce some bureaucratic and administrative requirements required under the current regulations with the goals of improving the quality of services provided under grant programs in the community and reducing juvenile delinquency rates in subject localities.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the “Detail of changes” section.)

The following changes have been proposed for the Minimum Standards for Virginia Delinquency Prevention and Youth Development Act Grant Programs Regulation:

- Changed annual plan requirement to biennial comprehensive plan to coincide with other planning required by localities, including budgeting. The “Biennial Comprehensive Plan” is defined in section 10 and references thereto are changed throughout the regulation.
- Defined and required “Annual Grant Programs Update” as provided in the Code of Virginia. (sections 10 and 500). This proposed change, combined with the requirement for a biennial comprehensive plan, will streamline the budget, review, and updating process; keep the lines of communication open between the DJJ and the grant recipients; and reduce duplicative reporting.
- Removed requirement for a full time director (section 180) given the staffing requirements already provided in section 225.
- Amended the background check (section 236) to be required if the volunteer or staff will provide services directly to a juvenile on a regular basis and will be alone with the juvenile performing these duties. Deleted section 237 (employee background checks) as it would be duplicative given the amendments to section 236.
- Amended the needs assessment (section 450) to require two components to be evaluated every two years with all four updated over a four year cycle. As currently drafted, one component must be evaluated annual, with all four evaluated over the four year cycle. The proposed amendment allows some flexibility in the review with the end result (each evaluated over the four year cycle) remaining intact.
- Section 575 is amended to reflect changes in the referenced regulatory provisions.
- Subdivision 3 in section 600 is amended as appropriate qualifications is required by section 225, the applicable professional licensing authority, and the Standards for the Nonresidential Services Available to Juvenile and Domestic Relations District Courts (6VAC35-150).

Issues

Please identify the issues associated with the proposed regulatory action, 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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The proposed amendments have been vetted through an advisory committee, consisting of individuals who would be affected by the changes, should funding be reinitiated. The proposed amendments would streamline the reporting requirements while not affecting the quality of services provided by grant recipients or the ability of the Department to oversee such functioning. The proposed amendments do not pose any disadvantages to the public or the Commonwealth.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which are more restrictive than applicable federal requirements. Include 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 statement to that effect.

There are neither applicable federal requirements nor requirements contained in the proposed regulation that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

As the current Act is not funded, at this time no localities will be affected by the proposed regulatory action. Should funding of the Act be reinitiated, localities who receive grants thereunder will be affected by the proposed changes. No localities would be particularly affected as the provisions would apply equally to all grant recipients and participation in the grant program is voluntary.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the board/agency is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is 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.** Written comments must include the name and address of the commenter. In order to be considered comments must be received by the last date of the public comment period.

A public hearing will not be held.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>Not applicable.</p>
<p>Projected cost of the regulation on localities</p>	<p>None. If the Act is funded, participation is voluntary and funding will be associated with implementation.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>If the Act is funded, this regulations would affect those localities who are grant recipients and the service providers and recipients of services related thereto.</p>
<p>Agency’s best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>Cannot be determined. The current Act is unfunded. If funding is reinitiated, participation in the grant program is voluntary. While several offices on youth continue to function in localities, they are currently funded through alternative sources.</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>None. If the Act is funded, participation is voluntary and funding will be associated with implementation.</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. 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 regulation.

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 the reviewing and amending current regulation is the only practicable alternative for addressing certain issues identified during the periodic review of this regulation.

Regulatory flexibility analysis

Please 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) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of 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 proposed regulation.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response

No public comments were received during the NOIRA stage.

Family impact

Please assess the 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 programs or services, should such services be funding by the General Assembly. 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.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section	Proposed new section	Current requirement	Proposed change and rationale

number	number, if applicable		
10		Defines an “annual plan” as a plan covering a single fiscal year, based on an assessment of the community’s needs, which sets goals and objectives for youth services.	The “annual plan” was changed to a “Biennial Comprehensive Plan” with an “Annual Grant Programs Update” to coincide with the Commonwealth’s biennial budget cycle while keeping the department aware of the status of the programs funded by the grants. All referenced to the “annual plan” have been changed to “biennial comprehensive plan” throughout the document.
10		Defines an “individual service plan” as a plan to meet a juvenile’s needs that specifies goals, the methods and timeframes for reaching the goals, and the responsible parties.	The definition was amended to apply also to adults as adults, such as family members or care givers, receive services under this regulation. The definition was changed to required “measurable” goals and “objectives and strategies” rather than methods for consistency with the best practices from other fields, such as education and mental health.
10		Defines a “local governing body” as a city council or county board of supervisors	The definition was amended to ensure that all forms of local governing bodies are included in the definition.
10		Defines “locality” as a city or county or combination thereof.	“Towns” were added to the definition to ensure that all types of localities were included in the definition.
10		Defines “supervision” as that required by court service unit staff, among others.	The definition was clarified as to which court service unit staff would be making supervision a requirement.
10		Defines volunteer as an individual who provides goods or services without compensation.	The definition was amended to include interns as a type of volunteer and that such services may or may not be provided to the program to ensure that the scope of applicable provisions was not too narrow.
40		Requires a “Youth Services Citizen Board” to have appointed members including a youth member.	Added that the appointment will be made by the local governing body, which is consistent with how such members have previously been appointed, and clarified that “youth” are members who are below the age of 18 at the time of the appointment.
71		Requires the Youth Services Board’s responsibilities to be written and approved by the local governing body.	Details the statutory requirements for Youth Services Citizen Boards to ensure that such obligations are known and clear.
180		Requires the Office on Youth to have one paid full time director	Deletes the requirement that the Office on Youth have on paid full time director. Often, the Office on Youth director is also the director of a localities VJCCCA plan or other juvenile services. Since appropriate staffing is required by section 215 (which may or may not require a full time director depending on the needs of the office), this requirement is recommended for deletion.
190		Requires the Office on youth to have access to clerical and other support services.	Modifies that such access shall be available “as needed). Given the staffing requirements in section 215, such access may not be necessary in

			all localities. Adding the term “as needed” provides flexibility to localities while not reducing the efficiency of any offices.
225		Requires staff and volunteers to have appropriate qualification and training for the services provided.	Adds the term “certified” to the types of qualifications and trainings that must be appropriate to services provided. This is necessary because some services require specific certification (i.e.: Certified Sex Offender Treatment Providers).
236		Requires volunteers to have appropriate background checks.	Amended to also include the background check requirements for staff and clarifies when such checks are required. The limitation of such checks when staff/volunteers will be alone with juveniles is consistent with the background check requirements for residential facilities.
237		Requires employees to have appropriate background checks.	Deleted this section and moved applicable provisions to section 236.
290		Requires a training program to be implemented in accordance with the Annual Plan and updated annually for each full-time position.	Changes the training program to be in accordance with the Biennial Comprehensive Plan and updated annually as needed.
330		Requires a budget to be submitted annual.	Changes the annual submission to a biennial submission, in accordance with the state’s biennial budget process.
450		Requires a needs assessment to be developed based on the assessment of four components. One of these components must be evaluated annually, with all four evaluated over the four year cycle.	Amends the needs assessment to require two components to be evaluated every two years with all four updated over a four year cycle. The proposed amendment allows some flexibility in the review with the end result (each evaluated over the four year cycle) remaining intact.
575		Requires offices on youth to comply with certain provisions of the Standards for Nonresidential Services Available to Juvenile and Domestic Relations Courts.	Reflects changes in the referenced regulatory provisions.
600		Requires offices on youth’s records to include verification of appropriate licensure for service providers.	Deletes the requirement for such records to be retained in the offices’ records.