

REGULATIONS GOVERNING THE MONITORING, APPROVAL
AND CERTIFICATION PROCESS OF JUVENILE JUSTICE PROGRAMS

6 VAC 35-20-10. Definitions.

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

~~"Administrative probation" means the status granted to a program or facility in an emergency situation at the discretion of the director pending the next regularly scheduled board meeting.~~

~~"Administrative review" means the audit of the administrative records of a local jurisdiction or governing commission. The administrative review involves only a review of documentation housed at a central office.~~

~~"Appeal" means the action taken by a unit, facility or program administrator after an audit when there is disagreement with a team finding of noncompliance.~~

~~"Appropriate regional administrator" or "chief" means the regional administrator, Chief of Operations for Learning Centers or Chief of Operations for Community Funding responsible for planning, implementing, coordinating, monitoring and evaluating the program in question.~~

~~"Board" means the Virginia Board of Youth and Family Services (BYFS) Juvenile Justice.~~

"Certification" means the board's formal finding that a program has achieved an acceptable level of compliance with standards and policies, and is approved to operate for a time period specified in the certificate provided the program maintains a satisfactory level of compliance with all applicable standards and policies or has acceptable plans of action.

~~"Certification audit report" means the report prepared for review by the board.~~

~~"Certification inspector" means a staff member of the DYFS Certification Unit who serves as the chairperson of the certification team. This person is referred to as team leader.~~

~~"Certification status" means the three year period of time during which the program must maintain its standards compliance levels and have acceptable plans of action.~~

~~"Certification team" means those persons designated by the Department of Youth and Family Services to conduct compliance audits, including the Certification Inspector.~~

~~"Certification training" means training provided by the certification unit for prospective team members or facility staff in need of audit preparation assistance.~~

~~"Certification unit" means the organizational unit of the Department of Youth and Family~~

~~Services responsible for organizing and facilitating inspections of programs funded by the department.~~

~~"Certification unit manager" means that person employed by the Department of Youth and Family Services responsible for the administration of the certification unit.~~

~~"Certified" means that a program has achieved an acceptable level of compliance with standards promulgated by the board.~~

~~"Chief of Operations for Community Funding" means the individual responsible for the planning, implementing, coordinating, monitoring and evaluating of the DYFS funding of locally or privately operated community programs.~~

~~"Chief of Operations for Information and Evaluation" means that individual employed by the Department of Youth and Family Services accountable for the administration of information and evaluation.~~

~~"Chief of Operations for Learning Centers" means that individual employed by the Department of Youth and Family Services accountable for the administration and operation of learning centers.~~

~~"Complaint" means a report of a problem or concern made by staff, clients, parents or guardians, other agencies or the general public about a facility or program certified by the Board of Youth and Family Services.~~

~~"Compliance" means meeting the requirements of a standard.~~

~~"Compliance Certification audit" means an on-site review by a certification team of designated personnel to assess a program's compliance with applicable board-issued standards and policies, promulgated by the board, the results of which are reported to the board for certification action.~~

~~"Compliance documentation" means those records, reports, pictures, blueprints, observations and interviews required to verify a program's adherence to standards.~~

~~"Decertification Decertified" means that a previously certified the Board of Youth and Family Services has determined that a program has not met a minimum maintained an acceptable level of compliance with standards and is no longer approved by the board to operate.~~

~~"Deficiency" and "noncompliance" mean that the program does not meet, or has not demonstrated that it meets, the requirements of a board-issued standard or policy or does not comply with the Virginia Juvenile Community Crime Control Act local plan approved by the board.~~

~~"Department" means the Virginia Department of Youth and Family Services (DYFS) Juvenile Justice.~~

~~"Deputy Director for Programs" means the individual employed by the Department of Youth and Family Services, and designated by the director as the administrator of program operations and funding.~~

~~"Deputy Director for Administration and Finance" means the individual employed by the Department of Youth and Family Services, and designated by the director as responsible for the management of administrative and financial operations.~~

~~"Director" means the Director of the Department of Youth and Family Services.~~

~~"Interim audit" means an audit that occurs by special order of the board or the director.~~

~~"Interim certification report" means the program's verification of continued compliance with the standards.~~

~~"Life, health, safety standards (LHS)" means those standards related to the life, health or safety of the youth and staff in residential programs as defined formally identified as such by the board that must be maintained in 100% compliance at all times and included as an appendix to this regulation, a violation of any one of which presents an immediate and potentially serious threat to one or more juveniles or staff, and which may result in immediate action (i) by the department, including but not limited to administrative probation, removal of residents, or suspension of funding, or (ii) by the board, up to and potentially including decertification.~~

~~"Mandatory standards" means those standards of performance for nonresidential programs as defined by the board which must be maintained in 100% compliance at all times.~~

~~"Monitoring visit" means an on-site review by designated personnel to assess a program's compliance with board-approved standards, policies and, when applicable, Virginia Juvenile Community Crime Control Act local plan.~~

~~"Newly opened facility" means both (i) a facility that is newly constructed and (ii) an existing facility that is being placed in service as a residential program.~~

~~"Not applicable standards" means standards which are not relevant to the program because of the structure of the program or the services it provides.~~

~~"Plan of action" means a written document which that explicitly states what has been or will be done to bring all deficiencies into compliance with board-issued standards and policies.~~

~~"Preparatory audit" means an on site review of a new program by regional office staff prior to an audit by a certification unit staff member to provide guidance in audit documentation and standards compliance.~~

~~"Probationary status" means the temporary status granted to a program by the Board of Youth and Family Services to provide a period of time in which to come into compliance with standards.~~

"Program" means a juvenile residential facility or non-residential service subject to standards or policies of the board.

~~"Program administrator" means the staff member responsible for the operation of a program, facility or institution.~~

~~"Quality of life and services statement" means the portion of the audit report to the board which describes issues regarding staff (such as motivation, commitment to the program, personal development, interaction between staff and clients and team work), the building (such as suitability of building and furnishings for program and population, provisions for privacy, maintenance, safety); and program (such as use of community resources, community interaction, interagency cooperation, individualized treatment).~~

"Random sampling" means a system for selecting programs for monitoring visits, by which all programs in a given category have a similar likelihood of being selected for a visit, but which may not result in any given program receiving a monitoring visit during any given period of time.

~~"Regional administrator" means the individual responsible for the direction of activities in a designated area in the Commonwealth to include planning, implementing, coordinating, monitoring, and evaluating DYFS and DYFS utilized programs.~~

~~"Regional office staff" means those individuals assigned to a particular regional office responsible for assisting the regional administrator in the duties described above.~~

~~"Related professional agencies" means any unit within the Department of Youth and Family Services or any public or private agency, which serves a similar clientele or provides services similar to those of the program to be certified.~~

"Substantial compliance" means that any deficiencies or non-compliances found are minor and, taken together, do not constitute a significant shortcoming in the program's overall operation, safety and security, or quality of services.

~~"Standard Systemic deficiency" means that the performance of a unit, facility or program, or evidence supporting this performance, is insufficient to meet the requirements of a standard a number of discreet but related deficiencies have been identified which, when taken together, suggest that a program may have significant problems in a given area.~~

"Not in substantial compliance" means that serious deficiencies or non-compliance were found in the form of (i) life, health and safety standards violations, or (ii) multiple or repeated systemic deficiencies, or (iii) numerous discreet deficiencies which, when taken together, constitute a significant shortcoming in the program's overall operation, safety and security, or quality of services.

~~"Suggested compliance determination list" means a list of suggested documents or information~~

~~sources which can be used to verify compliance with a standard.~~

~~"Unannounced interim visits" means periodic visits to a facility to monitor compliance with standards.~~

~~"Variance" means a decision by the Board board of Youth and Family Services to relieve action that relieves a program of from having to meet a specific standard or develop a plan of action for a specified that standard, either permanently or for a determined period of time, when (i) enforcement will create an undue hardship; (ii) the standard is not specifically required by statute or by the regulations of another government agency; and (iii) juveniles' care or services would not be adversely affected.~~

6 VAC 35-20-20. Legal Basis in the Code of Virginia References.

Code of Virginia:

~~§ 16.1-233. Department to develop court services,....appointment and removal of employees, salaries.~~

~~§ 16.1-234. Duties makes it a duty of Department the department...(to insure that local court service units adhere to minimum standards are adhered to) established by the board.~~

~~§ 16.1-249 requires that certain places of confinement for juveniles, including detention homes and group homes, be approved by the department.~~

~~§ 16.1-309.9 (A) directs and authorizes the Board of Juvenile Justice to develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by the Virginia Juvenile Community Crime Control Act, and to approve minimum standards for detention homes and other facilities.~~

~~' 16.1-309.9 (B) states that "the State Board may prohibit, by its order, the placement of juveniles in any place of residence which does not comply with the minimum standards. It may limit the number of juveniles to be detained or housed in a detention home or other facility and may designate some other place of detention or housing for juveniles who would otherwise be held therein."~~

~~' 16.1-309.9 (C) directs the department to periodically review all services established pursuant to the Virginia Juvenile Community Crime Control Act and annually review expenditures to determine compliance with the approved local plans and operating standards; if a program is not in substantial compliance with the approved plan or standards, the department may suspend all or any portion of financial aid made available to the locality until there is compliance.~~

~~' 16.1-309.10 provides that the board or its agents may visit, inspect and regulate any detention home, group home or other residential care facility for children who are in need of services, delinquent or alleged delinquent.~~

~~§16.1-311. Board to prescribe certain standards; how order of board enforced.~~

~~§16.1-312. Visitation and management of detention homes.~~

~~§66-10 (4) authorizes the Board board to adopt regulations for the operation of halfway houses monitor the activities of the department and its effectiveness in implementing the policies of the board.~~

~~§66-28. Board to adopt standards for Delinquency Prevention and Youth Development Act Programs.~~

Part II

Administration

~~6 VAC 35-20-30. Legal base and history- Purpose.~~

~~Section 66-10 of the This regulation prescribes how, in accordance with Code of Virginia Sections 66-10, 16.1-234, 16.1-349, 16.1-309.1, 16.1-309.9.B, and 16.1-309.10, requires the Board and Department of Youth and Family Services Juvenile Justice to prescribe program standards and to will monitor the activities of the department in implementing the standards. and approve residential and nonresidential programs that are part of the Commonwealth's juvenile justice system.~~

~~This chapter replaces and supersedes Department of Corrections Regulations Governing the Certification Process, 6 VAC 15-20-10 et seq.~~

~~6 VAC 35-20-35. Guidance documents.~~

~~To help programs comply with regulatory and policy requirements, the department shall prepare guidance documents compiling all standards and policies applicable to each type of program and stating how compliance will be assessed. The guidance documents will serve as the basis for monitoring visits, certification audits, and the board's certification action.~~

~~6 VAC 35-20-37. Director's authority to take immediate administrative action.~~

~~Nothing in this regulation shall be construed to limit the Director's authority to take immediate administrative action in accordance with law whenever evidence is found of substantial noncompliance with board-approved standards, policies, or local plan for Virginia Community Crime Control Act programs. Such administrative action may include, but is not limited to (a) withholding funds; (b) removing juveniles from the program; or (c) placing the program on administrative probation for up to six months pending certification action by the board. In taking such action, the department shall notify both the program and the board, in writing, of the reason for the administrative action, and the action the program must take to correct the situation.~~

~~6 VAC 35-20-40. Effective date. [Repealed. This information is required in introductory~~

material.]

These regulations shall become effective on September 9, 1992.

Part III

Audits

~~6 VAC 35-20-50. Preaudit process. [Repealed.] [To be addressed in department procedures]~~

~~A. The certification unit manager shall develop a compliance audit schedule to cover a one year period for dissemination to affected programs and staff.~~

~~Requests for rescheduling the compliance audit may be granted by the certification unit manager, provided the program requests the schedule change 90 days prior to the scheduled audit. Audits must occur before the expiration of the current certification.~~

~~B. Certification team members shall be appointed and notified of their appointment in writing by the appropriate regional administrator or the chief. Team members shall have completed certification training and shall be approved by the certification unit manager and the director or designee. The appropriate regional administrator or the chief shall be informed at least 10 days prior to the audit of any unacceptable team members. The appropriate regional administrator or chief shall be responsible for finding a replacement within five days of the audit and notifying the certification unit manager of that replacement.~~

~~C. The program administrator of the agency to be audited shall receive a list of team members and shall have the right to request alternate team members. The request shall be in writing and shall be approved by the appropriate regional administrator or chief assigning the team member. The appropriate regional administrator or chief shall be responsible for finding a replacement for the team member if approved.~~

~~D. The certification unit inspector shall notify the program administrator in writing at least 60 days in advance of the audit.~~

~~E. The certification inspector shall visit the program administrator prior to the audit to discuss the compliance audit process and procedures. Exceptions to this previsit shall be approved by the certification unit manager.~~

~~F. In instances where several programs are operated under the administration of a single commission, the certification unit manager and the program administrator may agree to an administrative review audit.~~

~~6 VAC 35-20-60. Frequency of audits Monitoring visits.~~

~~A. All state and local facilities, programs and units operated by or affiliated with the Department of Youth and Family Services shall be audited every three years by the certification unit or a~~

designee of the unit. More frequent audits may occur as required by the board subject to periodic monitoring visits, scheduled and conducted in accordance with written department procedures.

B. All programs referenced in subsection A shall receive announced or unannounced documented interim audits by regional office staff or staff of the appropriate chief at least once every six months. More frequent audits may occur as required. The department shall annually submit to the board a plan for monitoring programs which shall provide for at least the following:

1. All residential programs, court service units and offices on youth shall receive at least one announced and one unannounced monitoring visit per year. A certification audit may satisfy the requirement of a scheduled monitoring visit.

2. All nonresidential programs established under the Virginia Juvenile Community Crime Control Act (Article 12.1 of Title 16.1 of the Code of Virginia) shall be reviewed at least once every two years to determine compliance with the approved local plans and standards promulgated by the board. Individual nonresidential programs shall receive monitoring visits according to the department's annual plan, which may provide for random sampling of programs in various categories.

6 VAC 35-20-63. Reports of monitoring visits.

At each regular meeting of the board, the department shall report to the board in writing:

1. all programs receiving monitoring visits since the last report;
2. a summary of any noncompliance found with board standards, policies or VJCCCA local plan, supplemented with documentary, photographic or other evidence when appropriate;
3. a summary of any action taken by the program or the department in response to the deficiency; and
4. the status of the resolution of the non-compliance.

6 VAC 35-20-65. Reports required of life, health and safety violations.

Whenever department personnel become aware of a violation of one or more "life, health or safety standards" as designated by this board, the department shall report to the board no later than the board's next regularly scheduled meeting: (i) the nature and scope of the violation, and (ii) any action taken by the department or the program to correct the deficiency.

6 VAC 35-20-67. Disputes of non-compliance findings.

Any program that is cited for non-compliance with board-approved standards, policies or local VJCCCA plan may:

1. request a variance in accordance with 6 VAC 35-20-90, parts (7) and (8); or

2. appeal the matter, in writing, within 10 days of receiving notice of the finding, in accordance with department procedures and 6 VAC 35-20-75 C.

~~C. Exceptions to the frequency of audits as stated above shall be granted for the following reasons:~~

6 VAC 35-20-69. New construction, expansion or renovation of residential programs

- ~~1. When a new program opens it shall undergo a documented preparatory audit by regional office staff or staff of the appropriate chief during the first six months of operation. A compliance audit shall be conducted between the sixth and twelfth month of operation as arranged by the certification unit manager and every three years thereafter. More frequent audits may occur as required by the board.~~

~~A. New construction, expansions and renovations in all juvenile residential programs, whether or not the facility or its sponsor is seeking reimbursement for construction or operations, shall conform to applicable provisions in the board's Regulations for Local Juvenile Residential Facility Construction and Reimbursement of Local Construction Costs (6 VAC 35-30-10 et seq.), Standards for Interagency Regulation of Children's Residential Facilities (22 VAC 42-10 et seq.), and the department's Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities, which is hereby incorporated by reference.~~

~~B. The department shall not approve the housing of juveniles in a newly opened facility, or in any portion of a facility that has been modified through expansion or renovation, until designated department staff visit the facility and verify that:~~

- ~~1. the facility or applicable portion thereof complies with life, health and safety standards and physical plant standards; and~~
- ~~2. the current certification issued by the board is appropriate to the status of its program and construction.~~

~~2. Exceptions to the required frequency of audits may be granted when circumstances beyond the control of the program staff prohibit compliance with the standards (for example, natural disaster). In no case shall the audit be postponed for more than six months after the original audit date.~~

~~6 VAC 35-20-70. Agency narrative. [Repealed]~~

~~No later than 30 days prior to the audit, the agency/program administrator shall submit a written description of the program to be audited.~~

6 VAC 35-20-75. Certification of individual programs.

~~A. The board shall individually certify all juvenile residential facilities, court service units and offices on youth.~~

B. The department shall schedule and conduct certification audits in sufficient time for the board to take action on the audit report before a program's current certification expires. In the case of newly opened facilities, a full certification audit shall be conducted no later than six months after the first juvenile is placed in the program. The certification audit findings shall be reported to the program's administrator and sponsor and to appropriate department personnel.

C. Appeals of audit findings that cannot be resolved by the department shall be forwarded to the board for resolution.

D. Designated department personnel shall review and approve plans of action to address deficiencies identified in the audit report, and summaries of the approved plans of action shall be forwarded to the board along with the audit report.

E. Requests for variances shall be forwarded to the board along with the department's recommendation.

~~6 VAC 35-20-80. On-site audit procedures. [Repealed; to be addressed in department procedures.]~~

~~A. On-site audit procedures shall include the following:~~

~~1. Program administrator interview.~~

~~2. Facility tour.~~

~~3. Team orientation.~~

~~4. Data gathering.~~

~~5. Team voting on standards compliance.~~

~~6. Assessment and discussion of quality of life issues.~~

~~7. Prebriefing with the program administration to discuss audit findings.~~

~~8. Debriefing to inform program staff of audit findings.~~

~~B. Evidence of proof of compliance.~~

~~1. The burden of providing evidence of proof of compliance with standards rests with the program staff. Documentation created once the audit has begun shall not be accepted.~~

~~2. It is permissible to provide additional documentation should the certification team request it; however, such documentation shall already exist when the audit begins. Once the audit is concluded, an agency cannot bring itself into compliance with a standard for the purpose of changing the compliance rating for that standard. The changes become part of the program's plan of action.~~

~~3. The certification unit manager, the appropriate regional administrator or the chief where appropriate, and the director or designee shall be informed immediately of any serious problems or issues revealed to the team.~~

6 VAC 35-20-90. Certification audit reports.

~~A. Post reporting process.~~

~~1. A report of the team's findings shall be submitted within 10 working days following the compliance audit to the program administrator and the appropriate regional administrator or the chief of operations for learning centers where appropriate.~~

~~2. The program administrator may respond to the findings described in the report in one of three ways:~~

~~a. Submit a plan of action as described below.~~

~~b. Request a variance as described in subsection C.~~

~~c. Appeal the findings as described in subsection D.~~

~~2. The program administrator with assistance from the appropriate regional office or chief shall develop a plan of action to correct all noncompliance findings. The plan of action shall be submitted to the appropriate regional administrator or chief within 15 days of receipt of the report of the team's findings. In exceptional situations, the certification unit manager may grant a 30 day extension to a program administrator for the development of an action plan.~~

Each certification audit report submitted to the board shall contain:

1. the program's name, administrator, sponsor, location and purpose;

2. a summary of the program's target audience; its relation to other entities in the community and in the juvenile justice system; and other information relevant to its operation;

3. the date of the certification audit and the names of the audit team members;

4. notation of all standards and policies for which non-compliance was found, supplemented, when appropriate, with photographic evidence or other documentation, and a brief description of the circumstances, including extenuating and aggravating factors;

~~4. Each plan of action shall identify:~~

~~a. The deficiency or deficiencies.~~

~~b. The tasks required to correct each deficiency, including the steps necessary to prevent its~~

recurrence.

e. The responsible agency and staff position, which may include the regional office.

d. The deadlines for the accomplishment of tasks.

5. for each deficiency cited, a plan of corrective action which states:

a. the action required to correct the deficiency and prevent its recurrence;

b. the person or agency responsible for the action; and

c. the deadline for taking the action;

5. Acceptable plans of action. Within five working days of receipt the appropriate regional administrator or chief shall review and upon finding the plan acceptable, approve the plan of action and forward it to the certification unit manager. Within five working days the certification unit manager shall review, and forward the plan of action to the director or designee with recommendations regarding certification and recommendations to deny or approve variance requests. Within five working days the director or designee shall sign the plan of action indicating review and approval and return it to the certification unit for inclusion in the audit report to the board.

6. Unacceptable plans of action. ~~[the following to be addressed in department procedures]~~

a. Regional office or appropriate chief level. Within five working days of receipt, the regional administrator shall review the plan of action and upon finding the plan unacceptable, return it to the program administrator with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The program administrator shall have five working days in which to resubmit an acceptable action plan. If the resubmitted action plan is unacceptable, the appropriate regional administrator or chief shall forward it to the director or designee for referral to the board for action with a copy to the certification unit manager.

b. Certification unit level. If a plan of action approved by the appropriate regional administrator or chief is unacceptable to the certification unit manager, the certification unit manager within five working days shall return the plan of action to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate corrective action. The appropriate regional administrator or chief shall return the plan of action to the program administrator within five working days for revision. If the program administrator fails to submit an acceptable action plan within five working days, or the appropriate regional administrator or chief does not agree with the certification unit manager, the matter shall be referred to the director or designee for a decision or referral to the board for action.

c. Director or designee level. If a plan of action is unacceptable to the director or designee, it shall be returned within five working days to the appropriate regional administrator or chief with a cover letter clearly stating what areas are unacceptable and suggestions for appropriate

~~corrective action. The certification unit manager shall receive a copy. The appropriate regional administrator or chief shall then have three working days to return the plan of action to the program administrator for revision. The program administrator shall have five working days to resubmit an acceptable plan of action. If an acceptable plan of action is not submitted within the required time frame, the director or designee shall refer the matter to the board for action.~~

~~B. Failure to submit an acceptable action plan. When a program administrator fails to submit an acceptable plan of action within the time frame specified in subsection A, the department shall refer the matter to the Board of Youth and Family Services with recommendations for action.~~

~~C. Variance request.~~

~~1. 6. if A a variance may be is requested, in those instances where a facility is unable to comply with a standard or a portion of a standard.~~

~~2. A a written variance request must be supplied which shall state include:~~

- ~~a. the standard for which a variance is requested;~~
- ~~b. the justification for the request;~~
- ~~c. any actions taken to come into compliance;~~
- ~~d. the person and agency responsible for such action;~~
- ~~e. the date at which time compliance is expected; and~~
- ~~f. the specific ~~number of months~~ time period requested for this variance; and~~
- ~~g. a draft plan of corrective action describing how the program would meet the standard should the variance not be granted.~~

~~7. the department's recommendation as to the certification action to be taken, including variance requests.~~

~~3. Variance requests approved by the appropriate regional administrator or chief reviewed by the certification unit manager and approved by the director or designee shall be forwarded to the board for final approval. The board shall be made aware of any denied requests.~~

~~4. Should the program be subject to a compliance audit during the period of the variance, a copy of the approved variance shall be provided to the certification team during the on-site audit.~~

~~D. Appeal process.~~

~~1. If an appeal of any audit findings is being made, the program administrator shall attach the appeal request to any plan of action.~~

~~2. A plan to correct the deficiency should the appeal be denied shall be included in the plan of action.~~

~~3. Appeals shall be forwarded to the certification unit manager by the appropriate regional administrator or the chief along with the plan of action. The certification unit manager shall prepare a report on the appeal for review by the appropriate levels of appeal. The levels of appeal review are as follows:~~

~~a. The appropriate regional administrator or chief, upon review of plan of action, shall make every effort to resolve the appeal with the program administrator. If the program administrator is not satisfied, the appeal must be forwarded to the certification unit manager;~~

~~b. Chief of operations for information and evaluation;~~

~~c. Deputy director of administration and finance and the deputy director for programs;~~

~~d. Director for the Department of Youth and Family Services; and~~

~~e. Board of Youth and Family Services.~~

~~4. The certification unit manager shall distribute required documents within three working days of receipt of appeal documents. The administrators cited above shall complete required reviews or appeal decisions within five working days from receipt of the appeals.~~

~~5. Upon completion of each appeal level, the certification unit manager shall notify all parties involved of the appeal decisions within three workdays. The parties involved shall then have five working days from receipt of each decision notification to decide whether or not to appeal to the next level and to inform the certification unit manager of that decision in writing.~~

~~6. If the appeal is granted at the administrative level, the certification unit manager shall note this decision on the plan of action and the deficiency shall be removed from the audit report.~~

~~E. Board review of audit report. The certification unit manager shall submit audit reports at the first regular board meeting which occurs 75 days or more after the audit. The board shall be notified of any extensions granted.~~

~~Audit reports shall be distributed to the regional offices, and to the appropriate chief, after official board action for distribution to the applicable programs.~~

~~Statutory Authority~~

~~6 VAC 35-20-100. Board certification action ~~on audit results.~~~~

~~A. The board may extend a current certification for a specified period of time, pending a certification audit, provided the program meets all life, health and safety standards.~~

~~B. The certification status granted to a program will be stated on the certificate and will~~

remain in effect for the period of time specified on the certificate unless the certificate is revoked or surrendered sooner. Should the time period stated on the certificate expire before the board takes action to renew, modify or revoke the certification, the current certification will continue in effect until the next meeting of the board.

C. Based upon the certification audit report and supplementary information submitted by the department and the program, the board ~~shall make one of the following findings~~ will take certification action in accordance with Table 1, below. Depending on the program's status as identified in Column I and the conditions described in Column II, the board will take the certification action listed in Column III.

I. Program's Current Certification Status	II. Current program conditions as identified through the certification audit	III. Resulting Certification Action
<ul style="list-style-type: none"> New Program 	<ul style="list-style-type: none"> Making progress toward compliance with standards. 	Six-month Conditional Certification
<ul style="list-style-type: none"> Conditional Certificate Probation 	<ul style="list-style-type: none"> Meets all life, health and safety standards, AND Substantially meets all other standards, AND Has no systemic deficiencies. 	One-year Certification
<ul style="list-style-type: none"> One-year Certificate Three-year Certificate 	<ul style="list-style-type: none"> Meets all life, health and safety standards, BUT Current audit identifies systemic deficiencies that were not cited in previous certification audits, but otherwise in substantial compliance. 	
	<ul style="list-style-type: none"> Meets all life, health and safety standards, AND Substantially meets all other standards, AND Is not cited in the current audit for systemic deficiencies. 	Three-year Certification
<ul style="list-style-type: none"> New Program Conditional Certificate Probation One-year Certificate Three-year Certificate 	<ul style="list-style-type: none"> FAILS to meet all life, health and safety standards; OR Does not substantially meet other standards; OR Is cited in the current audit for MULTIPLE systemic deficiencies that were not cited in previous audits; OR Is cited in the current audit for one or more systemic deficiencies that were cited in previous audits. 	Probation for up to six months (The board shall specify the reason for the probation and the corrective action required to remove the probationary status.)
	<ul style="list-style-type: none"> Deficiencies that were cited in imposing probation or administrative probation have not been corrected; OR The program's staff have (i) committed, permitted, aided or abetted any illegal act in the program; or (ii) violated child abuse or neglect laws; or (iii) deviated significantly from the program or services for which a certificate was issued without prior approval from the board; or (iv) failed to correct any such deviations within the time specified by the board; or (v) falsified records. 	Decertification or Denial of Certification (See COV § 16.1-309.9.B.)

1. ~~The program is certified.~~
2. ~~The program is placed on probationary status.~~
3. ~~The program is decertified (or not certified if a new program).~~

~~The board may also place a program on administrative probation in emergency situations or continue an administrative probation status initiated by the director.~~

6 VAC 35-20-110. Notice of ~~certification status~~ board action.

A. ~~Information regarding program status shall be made available to the appropriate departmental, state and local authorities~~ Within two weeks of ~~the board's actions~~ any certification action, a designated officer or agent of the board shall send formal notice of the board action to:

1. the program;
2. the program's sponsoring locality, commission or private operator, as applicable;
3. designated department personnel; and
4. other state and local authorities, as appropriate to the specific circumstances.

B. ~~Administrators shall receive notification of their program's certification status in the following manner:~~

1. ~~A certificate shall be issued by the board to each certified program.~~
2. ~~A letter shall be issued by the board to programs that are placed on probationary status or decertified.~~

C. ~~Public notice of certification status certificates and status letters shall be posted upon receipt~~ The program shall post the certificate or letter issued by the board in a conspicuous place in the facility or program offices where it is visible to the public.

C. All variances approved by the board shall be made available at the program site to certification audit teams and department personnel conducting on-site visits.

D. ~~When a certifiable level of compliance is not achieved, the director or designee shall:~~

1. ~~Notify the program administrator of the board's action and provide 15 days to respond in writing.~~
2. ~~Send a copy of such notice to the person or entity authorized to take action.~~

6 VAC 35-20-120. ~~Failure to achieve~~ Actions following decertification or denial of certification.

~~A. When a program operated by the Department fails to achieve is decertified or denied certification; the following actions may be taken in compliance with statutes, policies, and procedures established by the board, the department and other state or federal agencies:~~

~~1. Department administered. If the Department of Youth and Family Services administers the program, actions may include, but are not limited to, the following:~~

~~a. The program administrator may reorganize the program, take necessary personnel actions and any other steps that will bring the program into compliance; or~~

~~b. The program may be closed. The procedure for such action Department may close the program, shall be in compliance with all board, department, state and federal regulations, policies, or requirements of law.~~

~~2. Locally or privately operated. If the~~ B. When a program that is locally, regionally or privately operated is decertified or denied certification, ~~and affiliated with the board and the Department may take any and all the following of Youth and Family Services, actions may include, but are not limited to, the following: as appropriate to the circumstances:~~

~~a. A recommendation may be made to the person or entity authorized to take action, sponsor to reorganize the program structure or take necessary personnel action or any other steps as may be necessary to bring the program into compliance with standards;~~

~~b. The Director of the Department or the Board of Youth and Family Services may, as applicable, initiate proceedings, and under authority of §§ [16.1-311](#), reduce or suspend funding to the program in accordance with §§ [16.1-322.1](#) , [16.1-309.9 C.](#), or ~~through [16.1-322.3](#), and [66-30](#) of the Code of Virginia as well as any other applicable laws relating to child abuse to withdraw funding or to prohibit placement of children or may withdraw the approval required by Code of Virginia Section [16.1-249 A \(3\) and \(4\)](#); or~~~~

~~c. The Board may enter an order, pursuant to Code of Virginia Section [16.1-309.9 B.](#), prohibiting the placement of children in the program.~~

~~6 VAC 35-20-130. Grounds for decertification. [Repealed]~~

~~A. A facility or program may be decertified by the board at any time for the following reasons:~~

~~1. Staff of the facility or program have permitted, aided or abetted the commission of any illegal act in the facility or program;~~

~~2. Staff of the facility or program have engaged in conduct or practices which are in violation of statutes related to abuse or neglect of children;~~

~~3. Staff of the facility or program have deviated significantly from the program or services for which a certificate was issued without obtaining prior approval from the Board of Youth and Family Services, failing to correct such deviations within the time specified by the board, or~~

both; or

4. ~~Falsification of records.~~

~~B. If the program administrator wishes to appeal the decertification status, he shall forward the request to the appropriate regional administrator or chief for forwarding to the certification unit manager who shall, within five days, prepare a report on the appeal request at the first regularly scheduled board meeting following receipt by the board of the report from the certification unit manager.~~

~~C. A program or facility may also be placed on administrative probation at any time pending investigation of alleged occurrences of any or all of the items stated above, or in an emergency situation at the discretion of the director pending board approval at its next regularly scheduled meeting.~~

6 ~~VAC 35-20-140. Newly adopted standards. [Repealed]~~

~~A. When standards are adopted for newly developed programs or when new standards are adopted for existing programs, the programs affected shall be held responsible for demonstrating compliance with the standards 90 days after the effective date of the new standards.~~

~~B. New programs to be certified under existing standards will undergo a preparatory audit by the regional office or staff of the appropriate chief within 90 days of accepting the first client (residential programs) or hiring of the director (nonresidential programs). A full audit by the certification unit staff will be conducted no more than six months after the preparatory audit.~~
