



**Virginia
Regulatory
Town Hall**

Proposed Regulation Agency Background Document

Currently awaiting OAG letter - must reference under BASIS

Agency Name:	Department (Board) of Juvenile Justice
VAC Chapter Number:	6 VAC 35-60
Regulation Title:	Minimum Standards For Virginia Delinquency Prevention And Youth Development Act Grant Programs
Action Title:	Amend the regulation to comply with requirements of item 475.B of the 2000 Appropriations Act, and with amendments made to the Delinquency Prevention and Youth Development Act by the 2000 General Assembly.
Date:	July 16, 2001

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

Summary

Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

Amendments to the regulation are drafted to comply with requirements of item 475.B of the 2000 Appropriations Act, and with amendments made to the Delinquency Prevention and Youth Development Act (Chapter 3 of Title 66 of the Code of Virginia) by the 2000 General Assembly.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.

The general authority of the Board of Juvenile Justice to promulgate regulations for Virginia's juvenile justice system is found in Code of Virginia § 66-10, which states that "The Board shall have the following powers and duties: ... (6) To 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."

The specific authority of the Board to promulgate regulations governing Delinquency Prevention And Youth Development Act Grant Programs is found in Code of Virginia § 66-28: "The Board shall 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 provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

This regulation establishes operating standards for Virginia's Offices on Youth. Consistent with Code of Virginia Sections 66-27 and 66-28, the goal of the regulation is "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 purpose of the proposed revisions is, first, to provide evaluation measures of the operations of offices on youth, as directed in item 475.B of the 2000 Appropriations Act: "The Department shall develop standards for the operations of Offices on Youth. Included in these standards shall be the establishment of goals, quantifiable objectives and measures for evaluation of program effectiveness for each Office on Youth receiving funding from the Commonwealth."

At the same time, the regulation implements a change in emphasis for offices on youth adopted by Chapter 277 of the 2000 Acts of the General Assembly. The amendments introduced in Chapter 277 emphasized the office on youth's planning and coordination role in its community.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.

Throughout the regulation, standards that restate requirements expressly laid out in the Code of Virginia are repealed. Chapter 3 of Title 66, the Delinquency Prevention and Youth Development Act, includes detailed requirements for localities that choose to apply for youth development grants, as well as for the youth services citizens boards that are authorized by the Act, and also sets out detailed instructions governing the grant application and funding processes.

Where the statutory requirements have been changed, the regulation has been amended to comply with the statutory changes.

In addition, in keeping with the instructions in item 475.B of the 2000 Appropriations Act, various requirements are spelled out more fully to increase accountability and to provide a more comprehensive basis for evaluating the effectiveness of programs.

Issues

Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 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 there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

There are no known advantages or disadvantages to private citizens or businesses in implementing the revised regulation.

The primary advantages to the Commonwealth (and its localities) in adopting the revisions will be an enhanced level of accountability of offices on youth, using structured assessments and evaluations to identify the more effective strategies, programs and services.

The primary advantages to Offices on Youth is a clearer focus and mission, enabling the offices to concentrate on their primary responsibility of coordinating, planning and assessing various prevention strategies.

There are no known significant disadvantages to the Department, the Offices on Youth, or the localities of the Commonwealth in adopting the proposed revisions.

Fiscal Impact

Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.

- a. The projected cost to the state to implement and enforce the revised regulation falls into two major categories. The category is the formal certification process, i.e., the programs are audited by the Department of Juvenile Justice's Certification Unit to ensure compliance with standards and the results are reported to the Board of Juvenile Justice for official certification action. The changes proposed to the regulation will entail NO CHANGE in the costs associated with this certification process.

Cost of conducting formal audits of 41 Offices on youth at 12 each year:

\$7800 - Staff time for audit prep work, on-site visit, and post audit reports.

\$1400 - Mileage expense (object code 1282)

\$1000 - Lodging (object code 1285)

\$500 - Meals (object code 1288)

\$10700 per year estimated expenses for audits.

Codes = program/sub program (319/01, fund source (01) and fund detail (00) for these efforts.

Fund 0100

The second category of costs to the state to implement and enforce the revised regulation is the monitoring review process, which is intended to monitor progress toward the goals and objectives listed in the annual plan. Sometimes referred to as "technical assistance," this process will be streamlined under the new regulations. Whereas in the past the regional offices generated the "on-site status report" (requiring approximately nine people to conduct two on-site visits to each office on youth each year), this function will not be done by one person operating out of the agency's central office. By changing the reference to "monitoring review" from "on-site" visit, this monitoring review can be handled either by visiting the site or by meeting with directors during regional meetings. As a result, travel costs (from regional offices to local offices on youth) previously associated with half the on-site visits will be eliminated. In their place will be as few as three trips per year to regional gatherings of office on youth personnel (from the agency's central office in Richmond to convenient locations serving offices on youth around the state). The net result is anticipated to be a small net savings to the Department of Juvenile Justice, of approximately \$1,000 per year.

- b. The projected cost of the regulation on localities will not change under the proposed revisions. The administrative costs associated with complying the regulation are often folded into the overall cost of operating a Delinquency Prevention and Youth Development Act grant program. As provided by section 66-31 of the Code of Virginia, “the state contributes up to 75% and the locality contributes at least 25% “of the total program budget for the proposed program for salaries and all other operating expenses including the lease of facilities, subject to funds provided by the General Assembly.” The cost will vary by locality depending on the size and scope of the program and the needs of each community. The state contribution in FY2001 equals (\$2,194,370 with \$731,458 in local matching contributions respectively).
- c. Offices on youth and their sponsoring localities will be most directly affected by the revised regulations. Over 47 localities are served by nearly 40 offices on youth throughout the Commonwealth.
- e. The projected cost of the revised regulation for affected entities will be 0 (that is, as compared with the current regulation)

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.

Throughout the regulation, standards that restate requirements expressly laid out in the Code of Virginia are repealed (See 6 VAC 35-60-20; 6 VAC 35-60-30; 6 VAC 35-60-440; 6 VAC 35-60-460; 6 VAC 35-480; and 6 VAC 35-60-490).

Requirements are established for background checks for Office on Youth employees (6 VAC 35-60-237) and volunteers who provide one-on-one services to youth outside of a group setting (6 VAC 35-60-236) .

Offices on Youth are required to provide for an evaluation of program effectiveness in their annual plans (6 VAC 35-60-415).

The elements to be considered in a community needs assessment are spelled out more fully (6 VAC 35-60-450).

The requirements for biennial operating plans are replaced by standards for annual plans.

The Department's process for monitoring office on youth operations has been modified to reflect organizational and operational changes within the Department (see 6 VAC 35-60-410). The requirements in 6 VAC 35-60-500 for distributing annual reports has been modified to reflect changes in program focus and Department organization.

A number of new standards are proposed that would govern direct service programs and services operated by offices on youth. Many of the requirements closely track existing standards that apply to non-residential programs and services in the juvenile justice system. The new standards governing direct service programs include 6 VAC 35-60-680 (imitation of contact with juveniles), 6 VAC 35-60-690 (medical emergencies), 6 VAC 35-60-700 (juveniles' rights), 6 VAC 35-60-710 (juveniles' participation in research), 6 VAC 35-60-720 (case management requirements), 6 VAC 35-60-730 (incident documentation and reporting), 6 VAC 35-60-740 (child abuse and neglect), 6 VAC 35-60-750 (programs' physical setting), 6 VAC 35-60-760 (individual service or contact plan), 6 VAC 35-60-770 (emergencies and safety in juveniles' homes), 6 VAC 35-60-780 (supervision of juveniles), 6 VAC 35-60-790 (meals when a program spans traditional mealtimes), 6 VAC 35-60-800 (fire safety), 6 VAC 35-60-810 (first-aid kits), 6 VAC 35-60-820 (delivery of medication), 6 VAC 35-60-830 (physical and mechanical restraint), and 6 VAC 35-60-840 (procedural requirements for time-out).

Alternatives

Please describe the specific 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.

One alternative to the regulation would be to reduce the conditions attached to the delivery of state funds for Delinquency Prevention and Youth Development Act grant programs. Reducing state regulations would appear to be consistent with a high level of local autonomy over offices on youth and related delinquency prevention efforts, and would meet the stated goal in Code of Virginia § 66-27, which is "to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency." The General Assembly, however, was apparently more concerned that the efforts of offices on youth lacked direction and focus. Item 475.B of the 2000 Appropriations Act directs the Department to develop standards for the operations of Offices on Youth that shall include the establishment of goals, quantifiable objectives and measures for the evaluation of program effectiveness for each Office on Youth. The General Assembly took other action in its 2000 Session, amending Code of Virginia §§ 66-29, 66-30, 66-34 and 66-35 to specifically direct the offices on youth to take more of a coordinating and facilitating role in their communities. Thus, the alternative of reducing state-level review and oversight apparently has been foreclosed. The General Assembly appears to be placing greater emphasis at present on the second goal stated in Code of Virginia § 66-27, which is "to promote efficiency and economy in the delivery of youth services."

Public Comment

Please summarize all public comment received during the NOIRA comment period and provide the agency response.

During the NOIRA comment period Department staff convened a work group including representatives from offices on youth across the state. Proposed revisions were circulated to all offices on youth. Some of the issues that were dealt with through the process:

- there was concern that without stipulating that one on-site visit had to be done in person that the folks in the field wouldn't see the prevention specialist in their own place of business. The regulation was changed to include that stipulation and to keep it to one visit per year.
- Some of the Offices on Youth were concerned about lumping all those Non-residential standards on their standards without qualifying them in terms of which ones applied would be hard. The revised draft incorporates a list of applicable standards so that there should be no confusion as what is required.
- There were concerns about the requirements for background checks; the revisions changed the language that had to do with the "background" checks based on information from the supervisor of the agency's background investigation unit.
- There was confusion as to what constitutes "direct services." The regulation's revised language defines "direct service" based on input from field.
- There was confusion as to which laws applied to the "records management" standard requiring "conformity with law." Based on internal comment from agency personnel, the revision identifies which laws are intended.

Clarity of the Regulation

Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.

The agency has consulted with a representative group of office on youth personnel to ensure that the regulation is relevant to their operations, is clearly written and easily understood by office on youth directors, members of youth services citizens boards, members of the governing bodies of the localities that sponsor offices on youth, and agency personnel who monitor and assess compliance with the regulations.

Periodic Review

Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.

The agency has adopted a schedule for reviewing and re-evaluating all regulations on a three-year cycle. Thus, it is anticipated that this regulation would be reviewed no later than October 1, 2004. At that time, the agency will determine whether the regulation is meeting the following specific and measurable regulatory goals:

1. Are quantifiable objectives and measures being used to evaluate program effectiveness in offices on youth across the Commonwealth?
2. For programs that provide direct services, what is the rate of compliance with new standards intended to protect children in such programs?
3. Are programs that receive high evaluation scores associated with actual reductions in delinquency and other at-risk behaviors in the community?

Family Impact Statement

Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

References to a youth's family or parents occur ten times in the regulation, in recognition of the fact that preventing delinquency and encouraging the development of our youth cannot occur entirely apart from youths' families. This recognition is especially significant in view of the fact that the enabling legislation, Code of Virginia Sections 66-26 through 66-35 never uses the term "family" and uses the term "parenting" only once. The regulation does not explicitly address the authority or rights of parents in the education, nurturing and supervision of their children, but implicitly recognizes that parental authority and family stability are crucial to preventing juvenile delinquency and enhancing the development of the Commonwealth's young people.