

REGULATIONS GOVERNING PROVISION OF SERVICES FOR THE INFANTS CHILDREN, AND YOUTH PROGRAM.

Final Regulation

Adopted January 4, 2002

CHAPTER 60.

REGULATIONS GOVERNING PROVISION OF SERVICES FOR THE INFANTS, CHILDREN, AND YOUTH PROGRAM.

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Research and Practice References

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~~—79 Am Jur 2d, Welfare Laws §25 (child welfare services).~~

PART I

INTRODUCTION.

~~22 VAC 45-60-10. — Definitions.~~

~~22 VAC 45-60-20. — Legal basis.~~

22 VAC 45-60-10. — Definitions.

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

"Client" means any person receiving a service provided by the Program for Infants, Children, and Youth of the Department for the Visually Handicapped.

"Department" means the Virginia Department for the Visually Handicapped.

"Infant" means a child age birth through two years inclusive.

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"Visual impairment" means a visual impairment which, even with correction, adversely affects a child's educational performance. The term includes both partially sighted and blind children.

Statutory Authority

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

Historical Notes

~~Derived from VR670-03-2 §1.1; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.~~

22 VAC 45-60-20 — Legal basis.

Section 22.1-217 of the Code of Virginia sets forth the responsibility of the Department for the Visually Handicapped in cooperation with the Virginia Board of Education to provide services to visually impaired children.

Statutory Authority

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

Historical Notes

~~Derived from VR670-03-2 §1.2; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.~~

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POPULATION SERVICE.

~~22 VAC 45-60-30~~ Population served.

~~22 VAC 45-60-30.~~ Population served.

The department serves children who meet the following requirements:

1. Ages birth through 21, inclusive.
2. Have a visual impairment.

~~Statutory Authority~~

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR670-03-2 §2.1; eff. August 3, 1988; amended, Virginia Register Volume 6,
Issue 11, eff. March 28, 1990.~~

PART III.

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SERVICES.

~~22 VAC 45-60-40. _____ Publically funded services.~~

~~22 VAC 45-60-50. _____ Free services.~~

~~22 VAC 45-60-60. _____ Discretionary services.~~

~~22 VAC 45-60-70. _____ Service plan.~~

~~22 VAC 45-60-80. _____ Services for visually impaired children.~~

~~22 VAC 45-60-90. _____ Priorities for visually impaired services.~~

~~22 VAC 45-60-100. _____ Departmental constraints.~~

~~22 VAC 45-60-40. _____ Publically funded services.~~

~~Except where stipulated, all services which are available through the Program for Infants, Children, and Youth are provided free of charge from public funds and in a fashion that is appropriate to the individual members of the population.~~

~~Statutory Authority~~

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

~~Historical Notes~~

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Derived from VR670-03-2 §3.1; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

22 VAC 45-60-50. — Free services.

The following services are provided free of charge for students whose family's income is less than 70% of the federally estimated median income for Virginia as determined by the U.S.

Department of Health and Human Services, Family Support Administration:

1. An eye examination is available once per year.

2. One pair of glasses is available once per year.

Statutory Authority

§§22.1-217 and 63.1-78 of the Code of Virginia.

Historical Notes

Derived from VR670-03-2 §3.2; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

22 VAC 45-60-60. — Discretionary services.

Subject to the limitations specified in 22VAC45-60-100, the department will be responsible for, but not limited to, providing the following discretionary services as appropriate for each individual client:

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1. Orientation and mobility services. Orientation and mobility services include teaching body image; spatial concepts; compass directions; protective travel techniques for the visually impaired; the proper use of a "long cane" if appropriate; and independent travel skills for residential, city, and rural settings as appropriate for the client's needs.

2. Low vision services.

a. Low vision services include a functional vision evaluation, a low vision examination if indicated, training in the use of prescribed low vision aids, and teaching vision utilization skills.

b. These services are available to partially sighted clients.

3. Infant development services.

a. Infant development services are provided using the diagnostic-prescriptive model in which the department's specialists work with the parent and infant program teachers to help them understand the nature of the client's visual disability and the needs associated with that disability. Technical assistance is provided so that developmental techniques can be adapted to meet the client's needs.

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b. These services are available to clients age birth to two years of age.

e. If the client is enrolled in an infant program, then the department's services will supplement those of the infant program.

4. Transition services. Transition services include technical assistance to schools which have clients enrolled in vocational education programs. This technical assistance will include suggestions for both curriculum modification and special or modified equipment.

Statutory Authority

§§22.1-217 and 63.1-78 of the Code of Virginia.

Historical Notes

Derived from VR670-03-2 §3.3; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

22 VAC 45-60-70. — Service plan.

Discretionary services will be provided in accordance with the department's service plan and the client's individual education plan (IEP) from his school division or, lacking an IEP, the department's education plan.

Statutory Authority

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§§22.1-217 and 63.1-78 of the Code of Virginia.

Historical Notes

Derived from VR670-03-2 §3.4; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

22 VAC 45-60-80. — Services for visually impaired children.

The department will lend braille or large print textbooks and specific equipment to the school divisions for use with visually impaired children. The children for which the items are loaned must be on the active service rolls of the department. The list of equipment which is available is updated annually and kept on file at the department's Instructional Materials and Resource Center. The equipment and textbooks can only be ordered by the department's staff and the public school division's Itinerant Vision Program teachers.

Statutory Authority

§§22.1-217 and 63.1-78 of the Code of Virginia.

Historical Notes

Derived from VR670-03-2 §3.5; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

22 VAC 45-60-90. — Priorities for visually impaired services.

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The following is a list of priorities to be used in determining the level and extent of services to be provided to visually impaired children:

1. Age. The younger the child the higher the priority to provide services.
2. Visual acuity. The more severe the child's visual loss the higher the priority to provide services.
3. When the visual impairment occurred. The more recently a child developed a visual impairment the higher the priority to provide services.

Statutory Authority

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

Historical Notes

~~Derived from VR670-03-2 §3.6; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.~~

22 VAC 45-60-100. — Departmental constraints.

The level and extent of services, equipment, and materials which is available to visually impaired are subject to the personnel and fiscal constraints on the department.

Statutory Authority

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

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Historical Notes

~~Derived from VR670-03-2 §3.7; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.~~

Cross references

~~Department's responsibility for providing discretionary services for individual clients, 22VAC45-60-60.~~

PART IV.

CLIENT APPEALS PROCESS.

~~22 VAC 45-60-110. Appeal procedures.~~

22 VAC45-60-110. Appeal procedures.

1. The Virginia Department for the Visually Handicapped affords any resident of Virginia who has a complaint pertaining to services sought or provided the right to a review and a fair hearing.

2. Before requesting a fair hearing, clients of the Virginia Department for the Visually

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Handicapped should make every effort to resolve the dispute through frank discussions with the employee whose decisions are in dispute. It is normally expected that virtually all grievances can be handled in this manner. If, however, the grievance is not resolved, the complainant should proceed.

3. First step. If the grievance is not resolved within 10 full working days after discussions between the client and the employee, the grievant must reduce his grievance to writing on a form obtainable from regional managers, facility administrators, or supervisors. The fully completed grievance form shall be delivered by the grievant to the employee of the Virginia Department for the Visually Handicapped with whom discussions were held. A copy shall also be delivered to that employee's immediate supervisor. The immediate supervisor of this employee shall meet with the grievant and the affected employee within a reasonable time not to exceed two weeks of receipt of the grievance form. The grievant may have a representative or legal counsel, or both, of his choice present at this meeting. Every effort will be made to reach a mutually satisfactory solution during the first step fair hearing.

4. Second step. If the supervisor's reply from the first step meeting is not acceptable to the grievant, he may request, in writing, a meeting with the assistant deputy commissioner for services. Such request must be submitted within two weeks after the first step decision is made. The assistant deputy commissioner for services shall meet with the grievant or his representative,

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or both, or legal counsel and the employee within five full working days of the grievant's request and reply in writing to the grievant within three full working days following the second step meeting. The agency may, however, at its own option omit the second step and choose a panel to hear the grievance in accord with the provisions of the third step of this procedure.

5. Third step. If the assistant deputy commissioner's reply from the second step meeting is not acceptable to the grievant, he may submit the grievance to a third step panel hearing. The request for panel hearing must be received within seven full working days after the conclusion of the second step. The panel shall be selected by the commissioner of the Virginia Department for the Visually Handicapped and will consist of three persons, including the assistant deputy commissioner who served in the second step and the commissioner who shall be chairman. The panel has the responsibility to interpret the application of appropriate agency policies and procedures in the case. It does not have the prerogative to formulate or change policies or procedures.

The panel shall set the time and place for the hearing, which shall be held as soon as practicable but no more than 10 full working days after the panel has been selected. The grievant may have present at this meeting a representative or legal counsel at his own expense. Copies of the grievance form shall be sent to the panel members.

The conduct of the hearing shall be as follows:

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- a. The panel shall determine the propriety of attendance at the hearing of persons not having a direct interest in the hearing.
- b. The panel may at the beginning of the hearing ask for statements clarifying the issues involved.
- c. Exhibits, when offered by the grievant, may be received in evidence by the panel; and when so received, shall be marked and made part of the record.
- d. The grievant or his representative and the agency employee shall then present claims and proofs and witnesses who shall submit to questions or other examination. The panel may, at its discretion, vary this procedure but shall afford full and equal opportunity to all parties and witnesses for presentation of any material or relevant proofs.
- e. The parties shall produce such additional evidence as the panel may deem necessary to an understanding and determination of the dispute. The panel shall be the judge of relevancy and materiality of the evidence offered. All evidence shall be taken in the presence of the panel and the parties.

The panel chairman shall specifically inquire of all parties whether they have any further proofs to offer or witnesses to be heard. Upon receiving negative replies, the chairman shall declare the hearing closed.

The hearing may be reopened by the panel on its own motion or under application of a party for good cause shown at any time before the decision is made.

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Copies of the decision shall be transmitted in writing to the grievant no later than 15 full working days after the completion of the hearing. The grievant shall be informed that this final decision completes all administrative action but does not preclude further pursuit of his grievance through the judicial or other process if he so desires.

Nothing in this procedure is intended to circumvent or modify the existing right of the Virginia Department for the Visually Handicapped to:

- a. Establish and maintain service standards;
- b. Determine the methods and means by which services are to be carried on;
- c. Direct the work of its employees; and
- d. Maintain the efficiency of governmental operations and services to clients.

6. If the department is unable to resolve a complaint in 30 full working days, it shall notify the Virginia Department of Education of the substance of the complaint and the reason for the delay.

Statutory Authority

§§22.1-217 and 63.1-78 of the Code of Virginia.

Historical Notes

Derived from VR670-03-2 §4.1; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.

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PART V.

PROTECTION, USE, AND RELEASE OF PERSONAL INFORMATION.

~~22 VAC 45-60-120. Protection, use, and release of personal information.~~

22 VAC 45-60-120. Protection, use, and release of personal information.

A. ~~The names of prospective clients, current clients, and past clients of the DVH Infants, Children, and Youth Program shall be confidential.~~

B. ~~Any information or documentation, such as eye reports, medical reports, financial reports, psychological reports, progress reports, DVH Plan for Services, DVH Narratives, and general data sheet, shall be confidential.~~

C. ~~Individuals referred for Infants, Children, and Youth Program services will receive an explanation at intake of the confidentiality of personal information including:~~

- ~~1. The need for confidential information;~~

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2. Conditions for accessing and releasing this information;

3. The authority under which confidential information is collected;

4. The principal purpose for which DVH will use or release the information;

5. Explanation of whether information the client is providing is mandatory or voluntary and the effects of not providing the information; and

6. Identification of those situations where the agency requires the client's written permission to release the information.

D. Explanation of policies and procedures affecting personal information will be made in appropriate media by DVH's Infants, Children, and Youth Program to individuals who do not communicate in English or who rely on special modes of communication.

E. DVH's Infants, Children, and Youth Program will use personal information only for purposes directly connected with the administration of the Infants, Children, and Youth Program.

Identifiable personal information will not be shared by DVH's Infants, Children, and Youth Program with advisory or other bodies which do not have official responsibility for the administration of the program.

F. When requested in writing, the DVH's Infants, Children, and Youth Program make all case information promptly available to the individual's parent or parents or guardian or guardians.

G. Personal information obtained by DVH's Infants, Children, and Youth Program from other agencies or organizations will be released only by, or under conditions established by, the other agency or organization.

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H. DVH's Infants, Children, and Youth Program will release personal information to an organization, agency, or individual for audit, evaluation, or research when such endeavors are directly connected with the administration of the Infants, Children, and Youth Program, when it would significantly improve the quality of life for the visually handicapped individual, and when assurances are given that:

1. The information will be used only for the purpose for which it is being provided;
2. The information will be released only to persons officially connected with the audit, evaluation, or research; and
3. The final product will not reveal any identifying personal information without the informed, written consent of the involved individual's parent or parents or guardian or guardians.

I. DVH's Infants, Children, and Youth Program will release personal information to other agencies or organizations for program purposes only if they demonstrate that the information is necessary for their program and upon receipt of informed, written consent of the individual's parent or parents or guardian or guardians.

J. DVH's Infants, Children, and Youth Program will release any personal information required:

1. To fulfill federal law;
2. To fulfill court order or in response to a law enforcement investigation, fraud, or abuse (except where expressly prohibited by federal law); and
3. To protect the individual or others when the individual poses a threat to the safety of himself or others.

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~~K. Upon the request of the U.S. Secretary of Education or his designee, the DVH's Infants, Children, and Youth Program will release to the secretary or his designee a complete and certified copy of the case record including transcripts of the fair hearing decision for the purpose of the secretary's review of the final decision.~~

~~Statutory Authority~~

~~§§22.1-217 and 63.1-78 of the Code of Virginia.~~

~~Historical Notes~~

~~Derived from VR670-03-2 §5.1; eff. August 3, 1988; amended, Virginia Register Volume 6, Issue 11, eff. March 28, 1990.~~

FORMS

~~Educational Service Plan, DVH 07-015 (eff. 5/93).~~

~~Service Complaint/Grievance Form, DVH 70-016 (eff. 11/93).~~

I certify that this regulation is full, true, and correctly dated.

W. Roy Grizzard, Jr., Ed.D., Commissioner

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Department for the Blind and Vision Impaired

January 4, 2002