



Virginia
Regulatory
Town Hall

Proposed Regulation Agency Background Document

Agency Name:	State Board of Social Services
VAC Chapter Number:	22VAC40-220
Regulation Title:	Agency Placement Adoptions-Guiding Principles
Action Title:	Repeal as a result of periodic review
Date:	August 14, 2002

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summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed.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.

This regulation sets forth guiding principles for local departments of social services in providing agency placement adoption services. The goal of the regulation is to provide a set of principles to guide best practices relative to agency placement adoptions. It is recommended that the regulation be repealed as the state and federal laws reflected in the regulation are no longer in affect.

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.

Sections 63.1-25 and 63.1-56 of the Code of Virginia grant authority to the State Board of Social Services to promulgate regulations for the provision of foster care services that shall be directed toward the prevention of unnecessary foster care placements and toward permanent planning for children in the custody of or placed by local boards of social services. Rulemaking under these two sections is discretionary rather than mandatory. The proposed change does not exceed federal minimum requirements. The Office of the Attorney General has certified that the State Board of Social Services has the statutory authority to repeal this regulation and this action comports with applicable state and federal laws.

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.

The regulation was enacted in 1989, based on best practices and state and federal laws in place at that time. Since that time, changes to state and federal laws have impacted adoption practice and the guiding principles included in the regulation. Those principles that were are not reflective of state and federal laws represent practice recommendations, not statutory requirements. It is recommended that the regulation be repealed in order to omit reference to obsolete state/federal requirements. The regulation is not essential to protect the health, safety or welfare of citizens. Best practice recommendations will be incorporated in the adoption services guidance document.

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.

The entire regulation is recommended for repeal.

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.

The advantage to the public, agency and Commonwealth is that applicable state and federal laws and suggested best practices will remain available in the adoption services guidance document. By not having this information in the form of a regulation, the ability to update and clarify the information will be greatly simplified.

There are no disadvantages to the public or Commonwealth.

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.

There is no anticipated fiscal impact of repealing the 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.

The entire regulation is recommended for appeal. Areas where the principles conflict with current federal and state laws include:

1. Guiding Principle 5 provides that the preferred adoptive family is one of the same race, ethnic, or cultural background whenever possible. This conflicts with Multi-Ethnic Placement Act of 1994 and as amended in 1997.
2. The federal 1997 Adoption and Safe Families Act also made dramatic changes to the way states administer both foster care and adoption programs.

3. Guiding Principle 12 addresses the rights of adult adoptees to full disclosure of information from their records except that which would reveal the identity of the family of origin. This is now mandated by the Code of Virginia making this regulation unnecessary.

The remaining guiding principles represent recommended best practices, which are not statutory requirements. All applicable federal and state laws, as well as best service delivery practices, will be maintained in agency placement adoption guidance document, Volume VII, Section VII, Section III, Chapter C.

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.

The regulation was established in 1989 and references obsolete federal and state laws and includes suggested practices that are not statutory requirements. Repeal of the regulation and inclusion of recommended practices in the policy and procedures manual represents the least burdensome alternative.

Public Comment

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

There was no public comment.

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, through examination of the regulation (no public comments received), determined that the regulation is clearly written and understandable by individuals and entities affected.

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.

Should the recommendation to repeal be approved, there will be no review and re-evaluation.

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.

Repeal of the regulation will have no impact on: 1) the authority and rights of parents in education, nurturing and supervision of their children; 2) the economic self-sufficiency, self-pride and the assumption of responsibility for oneself, spouse, children and/or elderly parents; 3) the marital commitment; and 4) disposable family income.