



Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC40-730
Regulation title	Investigation of Child Abuse and Neglect in Out of Family Complaints
Action title	Review and Amend Investigation of Child Abuse and Neglect in Out of Family Investigations
Date this document prepared	February 20, 2013

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 14 (2010) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (no more than 2 short paragraphs) of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation. Also, please include a brief description of changes to the regulation from publication of the proposed regulation to the final regulation.

The regulatory action makes technical amendments to 22VAC40-730, Investigation of Child Abuse and Neglect in Out of Family Complaints, conforming it to Child Protective Services (CPS), 22VAC40-705. Because definitions and requirements of 22VAC40-705 must be followed in out of family complaints, conformity in definitions and content between the two regulations is essential to maintain consistency across regulations for the investigation of child abuse and neglect. There were no changes to the regulation from publication of the proposed regulation to the final regulation.

Statement of final agency action

Please provide a statement of the final action taken by the agency including (1) the date the action was taken, (2) the name of the agency or board taking the action, and (3) the title of the regulation.

The State Board of Social Services (Board) took final action on 22VAC40-730, Investigation of Child Abuse and Neglect in Out of Family Complaints, on February 20, 2013.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person’s overall regulatory authority.

The Code of Virginia (Code) authorizes the State Board of Social Services to promulgate regulations to carry out the administration of social services in the Commonwealth under Chapter 15 (63.2-1500 et seq.) of Title 63.2. Sections 63.2-1506, 63.2-1511 and 63.2-1516.1 of the Code provide additional legal mandates for CPS investigations in out of family settings.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Detail the specific reasons it is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

As a result of a review of the Investigation of Child Abuse and Neglect in Out of Family Complaints regulation 22VAC40-730, inconsistencies were identified with definitions in the Child Protective Services regulation 22VAC40-705, which sets out the main requirements of CPS processes. Proposed changes to 22VAC40-730 provide technical amendments that are necessary to ensure conformity in definitions and content between CPS regulations providing for the investigation of child abuse and neglect. Conformity across CPS regulations is essential for consistency in critical decisions involving the health, safety and welfare of children and families involved in the CPS process. The goal of updating definitions and correcting inconsistencies is to provide clarity for local departments of social services when conducting investigations of child abuse and neglect in out of family complaints.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. A more detailed discussion is required under the “All changes made in this regulatory action” section.

Substantive changes to the regulation include: (1) incorporating by reference the definitions of Child Protective Services regulation 22VAC40-705; (2) eliminating duplicate definitions; (3) clarifying existing definitions to reflect updated terminology; and (4) conforming language throughout the regulation to reflect updated definitions as appropriate. Because the definitions and requirements of the CPS regulation 22VAC40-705 must be followed in out of family complaints, conformity in definitions and content between the two regulations is essential to maintain consistency across regulations for the investigation of child abuse and neglect.

Issues

Please identify the issues associated with the proposed regulatory action, including:
 1) *the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions;*
 2) *the primary advantages and disadvantages to the agency or the Commonwealth; and*
 3) *other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.*

The primary advantage of this final regulatory action is to promote consistency for local departments of social services authorized by Code to conduct CPS investigations in out of family complaints; thus, providing consistency in investigations involving abusers, victims and families and proper coordination with other regulatory authorities.

This regulatory action poses no disadvantages to the public or the Commonwealth.

Changes made since the proposed stage

Please describe all changes made to the text of the proposed regulation since the publication of the proposed stage. For the Registrar’s office, please put an asterisk next to any substantive changes.

There are no changes made to the text of the proposed regulation since the publication of the proposed stage.

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate.

There were no comments received during the public comment period following the publication of the proposed stage.

All changes made in this regulatory action

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

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
10. Definitions.	N/A		For consistency between CPS regulations, the introductory statement

			<p>incorporates by reference the definitions from the Child Protective Services regulation 22VAC40-705-10. By doing so, the following definitions are removed: caretaker; child day center; Child Protective Services; complaint; department; disposition; family day home; founded; and local agency.</p> <p>The definition for child day center is replaced with child day program, defined in §63.2-100. This is more general term and encompasses child day program.</p> <p>The definition for facility is amended to include child day program.</p> <p>The definition for residential facility is amended to reflect current terminology in examples of such facilities.</p> <p>The subsequent amendments in this regulatory action reflect the changes made to the definitions section.</p>
20. General.	N/A		<p>The term valid is added to qualify complaint.</p> <p>Changes in the definitions require that the following amendments be made: change child day center to child day program; omit regulated family day home; and change group residential facilities to residential facilities.</p>
30. Initial Assessment.	N/A		<p>Changes the title of this section from Initial Assessment to the more accurate term Safety Assessment.</p> <p>The term valid is added to qualify complaint.</p> <p>The term local department replaces local agency.</p> <p>The term safety is added to qualify plan.</p>
40. Involvement of regulatory agencies.	N/A		<p>The term valid is added to qualify complaint.</p> <p>The term local department replaces local agency.</p> <p>Child day program replaces child day center.</p>
60. Contact with CPS regional coordinator.	N/A		<p>The term valid is added to qualify complaint and the term local department replaces local agency.</p>

<p>70 A. Contact with the facility administrator.</p> <p>70 B.</p>	<p>N/A</p>		<p>For clarification, language is added regarding initiating contact with the facility administrator or designee.</p> <p>The term valid is added to qualify the complaint.</p>
<p>80. Contact with the alleged victim child.</p>	<p>N/A</p>		<p>The term local department replaces local agency.</p>
<p>90 A. Contact with the alleged abuser or neglecter.</p>	<p>N/A</p>		<p>The term local department replaces CPS agency, and the term valid is added to qualify complaint.</p>
<p>100. Contact with collateral children.</p>	<p>N/A</p>		<p>The term valid is added to clarify complaint, and the term nonvictim was added to qualify the collateral children referenced in this section.</p>
<p>115 B. Procedures for conducting and investigation of a teacher, principal or other person employed by a local school board or employed in a nonresidential school operated by the Commonwealth.</p>	<p>N/A</p>		<p>The term valid is added to clarify complaint.</p>
<p>130 A. Requirements</p> <p>130 B.</p>	<p>N/A</p>		<p>Replace the term CPS staff with CPS workers.</p> <p>The term local department replaces local agency.</p>