



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22VAC40-201
Regulation title	Permanency Services-Prevention, Foster Care, Adoption and Independent Living
Action title	Amend Permanency Regulation
Date this document prepared	April 18, 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*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The Permanency regulation, 22 VAC 40-201, encompasses the full range of services for prevention, foster care, adoption, and Independent Living Services. The regulation provides local department of social services with rules for the provision of child welfare services consistent with the Code of Virginia and federal law. The intent of this action is to make the regulation consistent with current Code of Virginia and federal laws, and to make any other changes the agency deems necessary.

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 state's legal basis for this action is § 63.2-217 of the Code of Virginia. This statute provides the authority for the State Board of Social Services to adopt regulations as may be necessary to carry out the mandated purposes of the Department of Social Services. Throughout Title 63.2, there are requirements

for regulations to be developed to implement permanency services. This regulatory action will provide a comprehensive and accurate structure for the provision of these services.

Need

Please detail the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.

This regulatory action is essential to protect the health, safety and welfare of the children and families involved with the child welfare system by avoiding confusion related to rules that apply to these children and families. This regulation is integral to Virginia’s compliance with current federal child and family services programs and regulations.

Substance

Please detail any changes that will be proposed. Be sure to define all acronyms. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed.

This regulatory action will incorporate technical corrections, language and processes that are consistent with the Code of Virginia, federal legislation and requirements that have been passed into law since the introduction of the current Permanency Services regulation. This includes but is not limited to: changes in definitions (such as guidance manual name change to the Child and Family Services Manual); elimination of Independent Living (IL) as an allowable permanency goal; changes to family assessment requirements; references to the VDOE (Virginia Department of Education) and VDSS Joint Guidance for School Stability of Children in Foster Care; additional components for service planning; changes to IL services; training requirements for child welfare staff; and establishing a process for regularly reviewing foster and adoptive parent rates.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also, please describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.

DSS does not see any viable alternative to the proposed regulatory action, as the action is necessary to make the regulation consistent and in compliance with the Code of Virginia and federal law. The regulation provides guidance to the local departments of social services in addressing the needs of children and families who have come into contact with the child welfare system. Compliance with the state and federal law and regulations is necessary for Virginia to access available federal funding to support child welfare services.

Public participation

Please indicate whether the agency is seeking comments on the intended regulatory action, including ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public hearing is to be held to receive comments on this notice.

Please also indicate pursuant to your Public Participation Guidelines whether a panel will be appointed to assist in the development of the proposed regulation. Please state one of the following: 1) a panel will be appointed and the agency's contact if you're interested in serving on the panel is _____; 2) a panel will not be used; or 3) public comment is invited as to whether to use a panel to assist in the development of this regulatory proposal.

DSS is not using a panel to assist in the amendment of this regulatory action. Ad hoc workgroups consisting of local and state constituents will be used to assist the agency in amending the regulation to meet the current Code of Virginia, federal law and regulations.

The agency is seeking comments on this regulatory action, including but not limited to ideas to be considered in the development of this proposal and potential impacts of the regulation.

Comments on this regulatory action will be requested from members of the Child Welfare Advisory Committee (CWAC) and the Permanency Advisory Committee (PAC). The committees consist of a cross section of individuals from various state and local agencies that are impacted by the services provided to children and families involved with child welfare.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Cynthia Bauer, VDSS, 801 North Main Street, Richmond, Virginia 23219, Cynthia.bauer@dss.virginia.gov, 804-726-7550, FAX 804-726-7499. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability including to what extent 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.

This regulatory action is intended to provide rules for local departments in addressing the needs of children and families who come into contact with the prevention, foster care and adoption programs of the child welfare system. This regulatory action will assist the local departments of social services in supporting the child's lifelong connections to family and/or other caring adults; maintaining the rights and the authority of parents when possible and strengthening families to maintain children in permanent safe and stable homes. This regulatory action will not directly impact economic self sufficiency, marital commitment or disposable family income.