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Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-201
Regulation title(s)	Permanency Services – Prevention, Foster Care, Adoption and Independent Living
Action title	Amend Permanency Regulation
Date this document prepared	June 18, 2015

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary (preferably no more than 2 or 3 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of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed.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.

Substantive amendments and other changes to this regulation are those required by legislation impacting the Code of Virginia in 2013 and 2014. Additional substantive changes were made to improve clarity and increase consistency with Code, as well as to improve organization of sections.

Changes due to legislation include the requirement for LDSS to address the needs of youth being released from the DJJ who were in foster care immediately prior to their commitment to DJJ. Also included is a provision limiting when a foster child in a kinship foster placement can be removed from the relative and allowing, under specific circumstances, the restoration of the parental rights of a youth in foster care. This regulatory action removes language listing independent living as a goal for all except a specific group of youth. Changes required by both federal and state law include provisions requiring that LDSS “shall” provide independent living services to youth between the ages of 14 to 18 and for youth 18

to 21 who are eligible and also a requirement that a service plan for a child be approved by the court within 60 days from the child’s entry into foster care. The 2014 Appropriation Act provision requiring negotiation of adoption assistance agreements by DSS has been added to this regulation.

In order to clarify requirements and improve consistency with Code, throughout the regulation, language regarding “resource families” has been changed to “foster” and “adoptive” families, as Code does not address “resource families.” The approval standards for adoptive parents differ from those for foster parents, only in the parent having a desire to adopt. However, use of the term “resource parent” to mean a family who is approved both to foster and adopt in the regulation goes beyond what is contained in Code. New language is added addressing the timing of medical and dental visits for youth in foster care.

The section of the regulation addressing adoption assistance (22VAC40-160) is being repealed and replaced with a new section, due to extensive changes and necessary reorganization. New requirements address the use of adoption assistance. Finally, in the section addressing non-agency adoptions, an incomplete list of exceptions to the prohibition against the exchange of money or other things of value in the placement or adoption of a child was deleted and reference was made to the Code location of more detailed information.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the “Definition” section of the regulations.

- AREVA- Adoption Resource Exchange of Virginia
- CSA- Comprehensive Services Act
- DJJ- Virginia Department of Juvenile Justice
- ICPC- Interstate Compact on the Placement of Children
- LCPA- Licensed Child Placing Agencies
- LDSS- Local Department of Social Services
- Title IV-E- the title in the federal Social Security Act that authorizes the use of federal funding for foster care and adoption
- PPI- Permanency Planning Indicator
- VDSS- Virginia Department of Social Services

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 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.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation 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.

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 LDSS with rules for the provision of child welfare services consistent with the Code of Virginia and federal law. The regulation is necessary for protecting the welfare of children in foster care because it addresses issues such as service planning, notification of relatives, factors to consider in placement, adoption assistance, and many other provisions intended to ensure the wellbeing of the child. The goal of this proposal is to make the regulation consistent with current Code and federal laws, and to make any other changes deemed necessary to ensure the accuracy and clarity of the regulation.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of changes" section below.

Substantive provisions and changes to this regulation include adding language in both the definitions section and the independent living section making youth over 18 being released from DJJ and in foster care immediately prior to their commitment to DJJ eligible to receive independent living services. The regulation also requires, consistent with Code, that LDSS "shall" provide independent living services to youth between the ages of 14 to 18 and for youth 18 to 21 who are eligible.

A provision is added to limit when a foster child in a kinship foster placement can be removed from the relative. Language is added on the timing of medical and dental visits for youth in foster care, removes language listing independent living as a goal for all except a specific group of youth and adds language requiring the service plan for a child be approved by the court within 60 days from the child's entry into foster care. In addition, there is language reflecting recent Code changes that will allow, under specific circumstances, the restoration of the parental rights of a youth in foster care. Language was added to clarify that adult relatives of a child "likely to be removed" be notified, in addition to the requirement that adult relatives be notified after removal. The process for collaborating with the foster care child's school to determine whether the child should continue at the home school or be moved to a new school, consistent with federal requirements, are provided. In section 70, changes clarifying the responsibility for the LDSS relative to establishing permanency for a child in foster care include the clarification that the LDSS shall continue to search for relatives and to try to establish permanency for a child until such time as it is achieved or not in the child's best interest even when the goal of permanent foster care, another planned permanent living arrangement, or independent living has been established. Changes to the regulation also require that the LDSS engage in concurrent permanency planning in order to achieve timely permanence for the child. Throughout the regulation, language regarding "resource families" has been changed to "foster" and "adoptive" families as Code does not address "resource families." The approval standards for adoptive parents differ from those for foster parents only in the parent having a desire to adopt. Use of the term "resource parent" to mean a family who is approved both to foster and adopt in the regulation goes beyond what is contained in Code.

Section 160 of the regulation addressing adoption assistance is being repealed and replaced with a new section 161 because changes and necessary reorganization would render this section of the proposed regulation very difficult to read. Language is added to that section about the use of department staff for the negotiation of adoption assistance agreements and addendums. Clarification is provided referencing the submission of the annual affidavit. Language is added regarding the responsibility of the LDSS to notify adoptive families of their right to appeal. Also included are conditions for continuation of adoption assistance beyond the youth's 18th birthday and termination of adoption assistance prior to the youth's

18th birthday. The new section includes language that provides clarity regarding eligibility for adoption assistance after finalization. Finally, in the section addressing non-agency adoptions, an incomplete list of exceptions to the prohibition against the exchange of money or other things of value in the placement or adoption of a child was deleted and reference was made to the Code location of more detailed information.

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.

This action poses no disadvantages to the public or the Commonwealth. This regulatory action amends the Permanency regulation which provides for the safety of children who come into the child welfare system and for children in the Commonwealth who are adopted. In particular this action addresses recent code changes to improve service delivery for older youth and medical and dental services for foster care youth and clarifies the process for determining adoption assistance eligibility and payment.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements in this regulatory action that exceed applicable federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

This regulation impacts LDSS. LDSS are located statewide and no individual locality will be particularly affected.

Public participation

Please include a statement that in addition to any other comments on the proposal, the agency is seeking comments on the costs and benefits of the proposal and the impacts of the regulated community.

In addition to any other comments, the Department of Social Services is seeking comments on the costs and benefits of the proposal and the potential impacts of this regulatory proposal. Also, the agency/board is seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include 1) projected reporting, recordkeeping and other administrative costs, 2)

probable effect of the regulation on affected small businesses, and 3) description of less intrusive or costly alternative methods of achieving the purpose of the regulation.

Anyone wishing to submit written comments for the public comment file may do so by mail, email or fax to Em Parente, Foster Care Program Manager, 801 East Main Street, Richmond, Virginia, 23219, FAX: 804-726-7895, Phone: 804-726-7538, email: em.parente@dss.virginia.gov or, comments may be submitted to Traci Jones, Adoption Program Manager at the same address and FAX, Phone: 804-726-7537 or email: traci.jones@dss.virginia.gov

Comments may also be submitted through the Public Forum feature of the Virginia Regulatory Town Hall web site at: <http://www.townhall.virginia.gov>. Written comments must include the name and address of the commenter. In order to be considered, comments must be received by 11:59 pm on the last day of the public comment period.

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

Economic impact

Please identify the anticipated economic impact of the proposed new regulations or amendments to the existing regulation. When describing a particular economic impact, please specify which new requirement or change in requirement creates the anticipated economic impact.

<p>Projected cost to the state to implement and enforce the proposed regulation, including: a) fund source / fund detail; and b) a delineation of one-time versus on-going expenditures</p>	<p>There is no additional cost to the state to implement and enforce this regulation. The development of additional regulatory and policy guidance documents and the monitoring of adherence to the regulations is a current responsibility of DSS staff.</p>
<p>Projected cost of the new regulations or changes to existing regulations on localities.</p>	<p>There will be minimal additional cost to localities for the changes in the regulation related to the limiting of when a foster child in a kinship foster placement can be removed from the relative, and allowing, under specific circumstances, the restoration of the parental rights of a youth in foster care. Additional court hearings may be required, but both of these situations are limited to a very small number of case/situations.</p> <p>There would be no additional cost to the localities for the change to the regulation requiring that a foster care plan for a child be approved by the court within 60 days from the child’s entry into foster care. The total number of required court hearings for each case has not increased; they will just occur within a shorter time frame. If the LDSS are able to achieve a successful exit from foster care for a child within a shorter period of time as a result, there would actually be a cost savings to the locality and a reduction in work effort.</p> <p>Also, there would not be additional costs to the localities for the change requiring that concurrent planning be used for every foster care case.</p>

	<p>Many LDSS are already using this practice. Additionally, the practice has proven to increase worker efficiency and timeliness to permanency. This would not change the total number of required court hearings for each case. If the LDSS are able to achieve a successful exit from foster care for a child within a shorter period of time as a result of concurrent planning, there could be a reduction in work effort for that case.</p> <p>There would also be minimal, if any, additional cost to the localities for the change in the regulation related to the timing of medical and dental visits for youth in foster care. Children in foster care are eligible for Medicaid and the recommended schedule of medical and dental care is consistent with Medicaid coverage.</p> <p>Changes to the regulation will require LDSS to provide independent living services to any person between 18 and 21 years of age who is transitioning from a commitment to the DJJ to self-sufficiency when the young adult was in the custody of the local department of social services immediately prior to his commitment. General funds in the amount of \$117,559 were included in the FY 2014 base budget for this activity as a result of legislation in the 2013 General Assembly (HB 1743 and SB 863). There is no additional fiscal impact as a result of this change to the regulation.</p> <p>There would be minimal, if any, additional cost to the localities for the changes in regulation regarding the use of adoption assistance funds.</p> <p>The General Assembly projected a cost savings with respect to appropriating funds in the 2014 Appropriation Act for the five adoption negotiator positions. The total estimated savings for FY 2015 is \$932,271 and the total estimated savings for FY 2016 and moving forward is \$958,460.</p> <p>Proposed changes which clarify existing requirements will not result in any additional cost to the localities.</p>
<p>Description of the individuals, businesses, or other entities likely to be affected by the new regulations or changes to existing regulations.</p>	<p>This regulation will impact LDSS and children and youth in their custody.</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that: a) is independently owned and operated and; b) employs fewer than 500 full-time employees or</p>	<p>120 LDSS and approximately 5,000 children will be affected.</p>

has gross annual sales of less than \$6 million.	
All projected costs of the new regulations or changes to existing regulations for affected individuals, businesses, or other entities. Please be specific and include all costs including: a) the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses; and b) specify any costs related to the development of real estate for commercial or residential purposes that are a consequence of the proposed regulatory changes or new regulations.	There will be no additional cost to businesses as a result of this regulation. Nor are there any costs related to the development of real estate.
Beneficial impact the regulation is designed to produce.	Proposed changes will bring the regulation into compliance with existing state and federal laws; clarify procedures and requirements so that LDSS can better address permanency and well-being needs of children in foster care and adoptive homes; and insure that young adults who were in the custody of the department have access to Independent Living Services when they exit DJJ commitment.

Alternatives

Please describe any viable 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. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in § 2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

This regulatory action reflects changes to Code, as well as practice changes. The action addresses LDSS actions related to care of children in foster care and also reorganizes and makes changes to the adoption sections. There are no viable alternatives to making changes to this regulation in response to changes in the Code and appropriations act. There is no alternative to making changes that correct language and make the regulation easier to use. The action does not impact small businesses.

Regulatory flexibility analysis

Pursuant to § 2.2-4007.1B of the Code of Virginia, please describe the agency’s analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

There are no other regulatory methods that would accomplish the objectives of this regulatory action. The regulation is applicable to LDSS in their activities involving youth in foster care and adoptions and does not have an adverse impact on small businesses.

Periodic review and small business impact review report of findings

If this NOIRA is the result of a periodic review/small business impact review, use this NOIRA to report the agency's findings. Please (1) summarize all comments received during the public comment period following the publication of the Notice of Periodic Review and (2) indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable. In addition, as required by 2.2-4007.1 E and F, please include a discussion of the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation from the public; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation.

This regulatory action is not the result of a periodic review/small business impact review.

Public comment

Please summarize all comments received during the public comment period following the publication of the NOIRA, and provide the agency response.

No comments were received during the comment period for the NOIRA.

Family impact

Please assess the impact of this 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 addresses the health and safety of children who have come into foster care. However, the first goal for children in foster care is reunification with their parents or prior caretaker and this regulatory action strengthens the involvement of parents in the process, including the provision of services to support the reunification of the family. The regulatory action does not directly impact family income or address care for elderly parents.

Detail of changes

Please list all changes that are being proposed and the consequences of the proposed changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. If the proposed regulation is a new chapter, describe the intent of the language and the expected impact. Please describe the difference between existing regulation(s) and/or agency practice(s) and what is being

*proposed in this regulatory action. If the proposed regulation is intended to replace an emergency regulation, please list separately: (1) all differences between the **pre-emergency** regulation and this proposed regulation; and 2) only changes made since the publication of the emergency regulation.*

For changes to existing regulation(s), use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, rationale, and likely impact of proposed requirements
Throughout the regulation		<p>The term “child-placing agency” is used to mean both LCPA and LDSS.</p> <p>The term “resource family” is used to signify that the family is approved as a both a foster and adoptive family.</p>	<p>Reference to LCPA is deleted in some places and replaced with local department or, when appropriate, local board. This regulation is for LDSS. A separate regulation addresses LCPA. The term “child-placing agency” remains in the regulation for subjects the LCPA regulation does not address. The change permits clear distinction between the authorities and responsibilities of the LDSS which have custody of the children they serve and the majority of LCPA which do not.</p> <p>The term “resource family” is removed and other adjustments to language are made to ensure consistency with Code definitions of foster and adoptive parents.</p> <p>Reference to the Foster Care Manual and the Adoption Manual is replaced with references to the VDSS Child and Family Services Manual which is the current name of the guidance developed by VDSS.</p> <p>Language is added to clarify that payments are made to individuals who meet federal and state requirements to receive such payments. Also clarifies that the payment may be made to an individual other than the adoptive parent.</p>
10		"Concurrent permanency	<p>Deletes the definition of “Adoption Manual” and “Foster Care Manual“. The current name of the guidance developed by VDSS is the VDSS Child and Family Services Manual. This name is now used throughout the regulation.</p> <p>Expands the definition of adoption assistance to clarify the need to conform to federal and state law.</p> <p>Amends the definition of “concurrent</p>

		<p>planning" is defined as "a sequential, structured approach to case management which requires working towards a permanency goal (usually reunification) while at the same time establishing and working towards an alternative permanency plan."</p> <p>The definition for "dual approval process" includes a summarized list of approval requirements.</p> <p>There is no definition for "Entrustment Agreement."</p> <p>The definition of "foster care" includes reference to "children under the care and placement of the local board who have not been removed from their homes."</p> <p>The definition of "foster care maintenance payments" includes a partial list of what these funds cover.</p> <p>A definition for "foster care placement" is provided.</p> <p>A definition of "service plan" is provided which includes the written document that describes the programs, services, and other support... offered to the child and his parents.</p>	<p>permanency planning" to clarify meaning and intent. The revised definition emphasizes that reasonable efforts must be made to reunite the child with the family while at the same time working towards an alternative permanency plan.</p> <p>Changes "dual approval process" to "dually approved" to be consistent with the Foster and Adoptive Home Approval Standards for Local Departments of Social Services regulation (22 VAC 40-211). Also, removes requirements for approval which are addressed comprehensively in the Foster and Adoptive Home Approval regulation.</p> <p>Adds the definition of "Entrustment Agreement," as this is another pathway in which a child can be placed in foster care and in which parental rights can be terminated.</p> <p>Adds language to "Foster care" to clarify that children placed through non-custodial agreements are in foster care. The term "non-custodial" references children who remain in their parents' legal custody while being in foster care and is more familiar to LDSS staff.</p> <p>Adds more detailed language to "Foster care maintenance payments," specifying what these funds cover to ensure consistency with the federal definition.</p> <p>Deletes the definition of "Foster care placement." This definition was removed from the Code several years ago when most references to non-custodial placements were removed.</p> <p>Replaces "Service plan" with "Foster care plan" to clarify the purpose of the document. The foster care plan addresses placement of the child and progress towards permanency goals, as well as services to be provided to the child and family as required by Title IV-E 42 U.S.C. 675.</p>
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		<p>Youth exiting DJJ are not mentioned.</p> <p>The Permanency Planning Indicator (PPI) tool is described as a tool used in concurrent planning.</p> <p>Currently refers to visits subsequent to the entry of an interlocutory order.</p>	<p>Adds language to “Independent living services” to include certain youth exiting from DJJ as being eligible to receive IL services.</p> <p>Deletes “local department” and replaces it with “child placing agency” in the definition of “Investigation” to be consistent with the definitions of “child placing agency” and “local department.”</p> <p>Amends the definition of “Nonrecurring expenses” to reference the Code to ensure accuracy.</p> <p>Deletes “Permanency planning indicator” as this term is no longer used in the regulation. The use of this assessment instrument is not mandated.</p> <p>Deletes definition of “Resource family” as this term is no longer used in the regulation.</p> <p>Amends the definition of “Step-parent adoption” to include a birth or adoptive parent to clarify.</p> <p>Deletes inaccurate language from “Visitation and report.”</p> <p>Amends the definition of “Youth” to include individuals over the age of 16 who are the subject of an adoption assistance agreement.</p>
<p>20</p>		<p>Currently the language simply states that services shall be available to the birth parents or custodians to prevent the need for foster care.</p> <p>The LDSS should consider a wrap-around plan of care prior to removing a child from his home.</p>	<p>In subsection C, adds criteria for eligibility for foster care prevention services to increase consistency with the Code. Emphasis on the provision of prevention services is intended to support and strengthen efforts on the part of the LDSS to work with families before entry of the child into foster care is required. Additionally, proposed language better identifies which children are members of the mandated population for access of CSA funding and IV-E administrative funds (reasonable candidates.)</p> <p>In subsection G, adds the requirement that the LDSS develop a written plan for the implementation of wrap around services prior to removing a child from his home and provide services to address identified needs as long as the</p>

		<p>The LDSS is required to notify relatives if child is removed.</p>	<p>risk of removal continues. In the event that the child cannot be safely maintained in the home, the LDSS will document why services considered and provided were not sufficient. This change is intended to clarify requirements regarding the provision of prevention services.</p> <p>In subsection H, clarifies that adult relatives are to be notified when a child is likely to be removed and adds that the LDSS will explain the options for the relatives to participate in the care and placement of the child. Notification of relatives may yield options which would eliminate the need for the child to enter foster care, Additionally, by involving relatives at this point, LDSS will be better able to assess each for potential to serve as a foster parent for the child should the child enter foster care which is consistent with federal law. The requirement to notify relatives before entry in to foster care and after entry into foster care is intended to bring attention to the requirement that both be done, not one or the other.</p> <p>Information about notifying relatives after a child is removed is moved to section 40, subsection A.</p>
<p>30</p>		<p>Former foster care youth who are committed to DJJ re-enter foster care when they are released.</p> <p>A foster care plan has to be submitted to the court for approval of a noncustodial agreement.</p>	<p>Language in subsection A related to youth leaving DJJ is deleted and a new section, 35, is added. Section 35 addresses actions the LDSS, in collaboration with the court services unit, needs to take to develop a transition plan which identifies needed services and how they are to be provided.</p> <p>In subsection B, clarifies requirements relative to entrustment agreements, including the requirement to submit a petition for approval to the juvenile and domestic relations court.</p> <p>In subsection C, clarifies requirements relative to non-custodial agreements, including the requirement to submit a petition for approval to the juvenile and domestic relations court. The time frame for submitting the plan to the court was changed from 60 to 45 days. This change results from 2013 legislation to bring the timing of foster care hearings</p>

			into compliance with federal requirements. The 2013 legislation had a delayed implementation date to allow for data system changes by the courts.
30	35	See proposed changes in 30.	<p>A new section, 35, “Re-entry into foster care from commitment” is added to clarify LDSS responsibilities relative to this population.</p> <p>In subsection B, adds information about the requirement to submit a petition for the approval of a new foster care plan for a youth re-entering foster care.</p>
40		<p>The requirement to notify adult relatives after a child comes in to foster care is in section 20, foster care prevention services.</p> <p>The LDSS shall ensure that a child in foster care is placed in a licensed or approved home or facility.</p> <p>The LDSS must make diligent efforts to place siblings together.</p> <p>Only children of Native American heritage are addressed.</p>	<p>Adds subsection A to provide that adult relatives will be notified when a child has been removed and the LDSS will explain the options for the relatives to participate in the care and placement of the child. This is consistent with federal law.</p> <p>Subsequent subsections are renumbered.</p> <p>Rearranges language in subsection B to correctly indicate that facilities are licensed and homes are approved.</p> <p>Adds provision to B 4 to clarify that efforts should be made to place siblings together, unless it is contrary to the safety or well-being of the child or siblings. This makes it clear that justification for not placing siblings together is required, as the expectation is that they will be placed together.</p> <p>In subsection B 7, Alaskan Eskimo and Aleut are added to the tribe members LDSS must be aware of and follow federal laws and regulations when they are at risk of coming into care. This is consistent with federal guidance.</p> <p>Adds a new number 8 in subsection B, setting out the conditions under which a LDSS can remove a child in a kinship foster care placement. This is a new requirement as a result of Code change in 2014, which restricts LDSS authority to move a child in foster care out of kinship care placement with a relative except under certain conditions.</p> <p>Rewrites D to improve flow – no change in intent.</p>

		<p>Local departments shall receive approval from the department's office of the ICPC prior to placing a child out of state.</p> <p>When a child is to be placed in another LDSS jurisdiction, the LDSS placing the child should notify the other local department.</p> <p>When a foster or adoptive family is moving from one jurisdiction to another, the LDSS holding custody shall notify the department in the new jurisdiction.</p> <p>In the case of an emergency placement, birth parents and all other relevant parties are to be notified immediately.</p>	<p>Adds language to E to clarify that notice of approval from the receiving state is needed prior to placing a child out of state.</p> <p>Adds language to F to clarify that when a LDSS is considering placement of a child in foster care in a foster or adoptive home which was approved by another LDSS, the placement is to be discussed with the approving LDSS. The intention of this change is to clarify which LDSS is responsible for consulting with the other to ensure that the needs of all the children in the home are considered before a new placement is made.</p> <p>Adds language to G to clarify that the subsection is referring to when a foster or adoptive family is moving with a child in foster care placed in the home. Procedures for foster families to be approved by a new LDSS are administrative; the requirement here is specific to ensuring that the child in foster care continues to be appropriately cared for and the placement continues to be monitored.</p> <p>Rewrites subsection J and J (1) to improve flow- no change in intent.</p> <p>In subsection K, clarifies that an emergency placement change is when an emergency situation requires an immediate placement change.</p>
<p>50</p>		<p>The LDSS must refer the child for all financial benefits to which the child may be eligible.</p> <p>The regulation does not address dental appointments.</p> <p>This section only touches on collaboration with local school divisions.</p>	<p>In subsection B, clarifies that the LDSS must assess the child for IV-E eligibility. This is the local practice; the regulation is being updated to clarify this requirement.</p> <p>Adds a provision to C that dental appointments are to be scheduled every six months as age appropriate and physicals should be scheduled annually. This is in line with Medicaid recommendations and coverage. It is also responsive to guidance provided by the federal government.</p> <p>Adds new language to subsection D and new numbers 3, 4 and 5 addressing joint decision making between the school division and the LDSS related to: transportation decisions; the need for</p>

		<p>The regulation does not include any requirement regarding notification of the child’s status change.</p>	<p>documentation of the jointly made decisions; and that the process of making a decision about a school should not delay the placement of a child in a new residence. This procedure is consistent with state and federal law enacted approximately three years ago.</p> <p>A new subsection E is added which provides that written notification must be given within 72 hours to the school principal and superintendent and that the principal will be notified of the status of parental rights. The intention of this requirement is to ensure that the school has sufficient information immediately to protect the child if necessary. It also creates an opportunity for collaboration between the school and the LDSS at the point that the child enters foster care.</p>
60		<p>The regulation addresses assessment for service planning and assessment for the development of permanency goals, but does not explicitly distinguish between the two types of assessment.</p> <p>The initial foster care assessment results in the establishment of a permanency goal. The subsection references use of the PPI to assist in determining if a concurrent plan should be selected.</p>	<p>Subsection A adds language that the assessment process is an opportunity for shared decision making with parents and that the assessments shall be used to help establish permanency goals and to inform the development of service plans. This section was edited to refer primarily to service planning and the monitoring of services being provided.</p> <p>Subsection B was deleted and information about selection of permanency goals was moved to section 70, Foster care goals. Language also is deleted in this subsection which refers to the PPI, an assessment instrument which is not mandated. Subsequent subsections were renumbered.</p> <p>Language is added to subsection E to clarify that assessment is ongoing and the effectiveness of services provided is evaluated.</p> <p>Current subsection D is relocated to a new subsection F to improve the flow of the section.</p>
70		<p>Current regulation addresses priority of goals.</p>	<p>Amendments in this section are intended to clarify the responsibilities of the LDSS relative to establishing permanency for a child in foster care. The information about the prioritization of goals was deleted, as it is not consistent with the Code. The names of the permanency goals were also revised to improve consistency with the Code.</p>

		<p>Section 70 does not address concurrent permanency planning.</p> <p>The regulation provides requirements for the LDSS when the goal of independent living is selected.</p> <p>Continued work towards permanency when a child is in permanent foster care or another planned permanent living arrangement status is not addressed in the regulation.</p> <p>In subsection A, independent living is listed as an allowable goal for a child in foster care.</p>	<p>Subsection C regarding permanent foster care is deleted, as the information it contains is not consistent with Code. A new subsection C provides that the LDSS will engage in concurrent permanency planning in order to achieve timely permanency for the child. This is consistent with expected local practice, and is intended to emphasize the requirement for LDSS to establish permanency for children in foster care.</p> <p>Subsection D regarding independent living as a foster care goal is deleted, as it is now a permissible goal only for a select population. Subsequent subsections were renumbered.</p> <p>Existing language in Subsection E is renumbered as subsection D and language is added to ensure the local board has first considered other goals prior to selecting the goal of another planned permanent living arrangement.</p> <p>New language in subsection E requires that if permanent foster care or another permanent planned living arrangement is selected, the LDSS must continue to search for relatives and significant individuals for the child and continue to evaluate the best interest. This change emphasizes the importance of establishing permanency for children in foster care. Although allowable goals, neither permanent foster care nor another planned living arrangement establish permanency for foster care children. They are a temporary status throughout which the child remains in foster care.</p> <p>Language from the prior subsection F is moved to subsection C to improve flow- no change in intent.</p> <p>New subsection F reflects a Code change that the goal of independent living is only selected for those children who were admitted to the United States as asylees or refugees, or for those youth over 18 leaving foster care and meeting the requirements to receive independent living services. New language is added that if the goal of independent living is selected, the LDSS</p>
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			will continue to search for relatives and significant individuals who will provide permanency for the youth.
80		<p>Current regulation does not specify a specific time to get the foster care plan to court.</p> <p>A visitation plan is not required if visitation is not in the best interest of the child.</p>	<p>New provisions in subsection A state that the foster care plan must be approved by the court within 60 days of entry into foster care. This is consistent with a Code change which became effective July 1, 2014. The term “foster care plan” replaces “service plan” to clarify that the plan which is submitted to court for foster care cases includes information about both services and efforts to establish permanency. Amendments in subsection A expand on who may be included in decision making.</p> <p>Language is deleted in subsection C which provided that a plan for visits with birth parents, former caretakers, and siblings was not necessary if not in the best interest of the child. The court will make the determination that visitation is not in the best interest of the child, based on information provided in the foster care plan. The development of a visitation plan is required by the Code of Virginia.</p>
90		<p>Subsection A addresses services to the child and others in a coordinated and collaborative system.</p> <p>The requirement of timely notification does not specify to whom notification should be made.</p> <p>Subsection C requires that services continue until an assessment indicates they are no longer needed.</p>	<p>Subsection A now provides that services must support the safety and well-being of the child and continue until evidence indicates they are not effective, no longer necessary or the parent or prior custodian has refused services. This provision comes from current subsection C, which is deleted in this action. Subsequent subsections were renumbered.</p> <p>In subsection B, new language is added to clarify that LDSS must notify birth parents or prior custodians of placement changes, hearings and meetings regarding the child, assessments and case progress, and be responsive to the requests of the child and birth parents or prior custodians.</p> <p>In the renumbered subsection C, language is deleted resulting in the language from D moving up to subsection C. That language is amended to clarify the services may be provided to relatives or other interested individuals who are assessed to be potential permanency options for the child.</p>

		<p>The schedule of medical and dental visits is not addressed.</p> <p>The regulation notes that information about the child is confidential, but does not address the responsibilities of the foster and adoptive parents regarding confidentiality.</p> <p>Foster and adoptive parents must be given appropriate sections of the foster care plan.</p> <p>Subsection F 6 refers a "contingency" fund while referencing a section of the Code which allows for liability insurance for foster parents.</p>	<p>A new subsection D is added which addresses health, dental and other types of screenings and the schedules to be followed, which will be described in the guidance manual. These requirements address well-being needs of children in foster care and are consistent with Medicaid guidelines and coverage.</p> <p>Subsection F is reorganized to improve flow- no change in intent except where noted here.</p> <p>Subsection F 3 is amended to clarify that the foster and adoptive parents shall keep information about the child confidential.</p> <p>In subsection F 4, the words "appropriate sections" are deleted and the instruction becomes to give copies of the service plan to foster and adoptive parents. Language is added providing that only information in the plans which is prohibited by Code from release should be withheld from the foster and adoptive parents.</p> <p>Subsection F 6 clarifies that VDSS provides a fund to reimburse local department foster and adoptive parents for damages to property caused by children placed in their homes. VDSS does not provide liability insurance.</p>
<p>100</p>		<p>Independent living services may be provided to all youth ages 14 to 18 and may be provided until the youth reaches age 21.</p> <p>Subsection G provides that only a youth who discontinued services after 18 but prior to 21 can request resumption of services.</p>	<p>Subsection B clarifies that Independent Living services are to be provided to youth ages 14 to 18 and also be provided to any person between 18 and 21 who is transitioning from foster care. This is consistent with Code changes over the past two General Assembly sessions.</p> <p>Subsection G is amended to clarify the criteria for the resumption of independent living services for youth. Additionally, the LDSS responsibility to notify youth in writing of their right to request restoration of independent living services is added. This requirement is consistent with changes made to the Code and intended to ensure that youth make informed decisions about discontinuing services or</p>

		<p>Independent Living Services were not available to youth exiting DJJ after age 18 until the law was changed. This population is not addressed in the regulation.</p>	<p>choosing not to take advantage of services available to them.</p> <p>A new subsection I sets out the requirements for provision of independent living services to youth who are being released from DJJ and who were in foster care immediately prior to being committed to DJJ. This new section is also the result of Code changes over the past two General Assembly sessions.</p>
<p>110</p>		<p>Current language requires the LDSS to explain to the child why individuals who the child wishes to have participate in the hearing will not be participating.</p> <p>The regulation references independent living as a goal as well as permanent foster care requiring administrative panel reviews and does not address annual court hearings.</p> <p>Adoption progress reports are not addressed specifically in the regulation.</p> <p>Restoration of parental rights</p>	<p>In subsection A 2, the term “child placing agency” is replaced with “service worker” to clarify the individual as opposed to the entity that will work with the child.</p> <p>In subsection A 3, language implying there may not be a concurrent goal for a child is deleted. Concurrent planning should be utilized on all foster care cases to ensure timeliness to permanency for every child.</p> <p>Subsection B is rewritten to clarify that administrative panel reviews are to be held every six months, alternating with an annual foster care review hearing when the goal of permanent foster care has been approved by the court. Independent living is no longer an allowable goal. The annual court review is a federal requirement.</p> <p>In subsection C, “other interested parties” is deleted and replaced with “relatives” and “service providers” as persons to be invited to an administrative panel review. “Other interested parties” is not clear enough direction and the addition of relatives specifically as persons to be invited is consistent with VDSS’ emphasis on family engagement and the recognition that relatives are resources for the child.</p> <p>A new subsection G is added to clarify that adoption progress reports will be written and entered into the automated child welfare data system every six months in addition to an annual foster care review hearing when the goal of adoption has been approved by the court.</p> <p>A new subsection H is added providing</p>

		is not addressed in the regulation.	that parental rights may be restored for certain children in accordance with § 16.1-283.2. This is required due to a change in the Code in 2014.
120		Subsection C requires the LDSS to reimburse foster parents for expenses paid on behalf of the child.	Subsection C is deleted, as this information is not needed in the regulation. Local departments use financial agreements to outline the responsibilities and requirements regarding reimbursement for expenses paid on behalf of foster children. Subsequent subsections were renumbered. Subsection D is amended by deleting the references to IV-E Manual and the Adoption manual. The referenced manuals are outdated.
130		Foster care cases are closed when a voluntary placement agreement is revoked.	In subsection A, the term “voluntary placement agreement” was replaced with “temporary entrustment or non-custodial agreements,” the correct terms used for voluntary placements by parents.
140		The LDSS director may grant approval for a child in foster care to travel out of state. Subsection C provides that an employee can be a resource parent for another LDSS or LCPA. The transition of youth from DJJ back to LDSS custody is not addressed.	In subsection A, a new provision allows the director to designate someone in addition to himself to grant approval for a child to travel out-of-state and out-of-country. Subsection C is amended to clarify that a local employee cannot be a foster parent to a child in the custody of that agency. The current language is confusing because the LDSS who is the employer may have custody of a child placed with a LCPA. If it is in the best interest of the child that the particular employee be the foster parent, the custody of the child may be transferred to another LDSS. A new subsection F adds language requiring the LDSS to work collaboratively with the court services unit to develop a plan for the child to successfully transition back to the community.
150		Currently AREVA is not explained. The regulation simply states AREVA’s purpose is to increase opportunities for adoption. Current language implies the listings are only for children with special needs. Current language does not	Subsection A adds the definition of “AREVA” for clarity and removes “special needs” from the subsection A2. A new subsection B adds language

		address a timeframe for registration.	requiring foster care youth with the goal of adoption and termination of parental rights to be registered with AREVA within 60 days of termination of parental rights.
160			The entire section is repealed. The reorganization and changes to this section would make it difficult for individuals to follow. A new section 161 is added for proper flow and description of the use of adoption assistance.
161		<p>Subsection A in 160 describes who executes the adoption assistance agreement and that they must use the form developed by the VDSS.</p> <p>Subsection B in 160 describes how a child is determined to have special needs through reference to the definitions section of the regulation and contains specific exceptions to the eligibility that were not consistent with Code.</p> <p>Subsection C in 160 describes for types of allowable adoption assistance.</p> <p>Subsection D in 160 provides for negotiating with the adoptive parents considering the child's special needs and circumstances of the family. This information is in subsection F of the proposed regulation.</p> <p>Subsection E in 160 discusses three types of payments that may be made for eligible children.</p>	<p>Subsection A addresses the purpose of adoption assistance.</p> <p>Subsection B describes how the child is determined to have a special need and provides reference to the Code.</p> <p>Subsection C specifies the types of payments and services that may be included in an adoption assistance agreement.</p> <p>Subsection D requires that children who meet Title IV-E requirements or are receiving state funded maintenance payments and who have a special medical need which meets the requirements used by the Virginia Department of Medical Assistance Services, have a statement in the adoption assistance agreement that indicates that status. The current regulation does not address ensuring the agreement has a statement regarding the special medical need.</p> <p>Subsection E adds additional criteria for the maintenance and service payments discussed in subsection C, including:</p> <ul style="list-style-type: none"> • The requirement that payments and services be negotiated by a VDSS representative; • Circumstances under which a maintenance payment can be increased or decreased; • That service payments must be tied to

		<p>Subsection F in 160 indicates the timeframe for execution and signing of the adoption assistance agreement, as well as what is specified on the agreements and that the agreement remains in effect regardless of the state to which the adoptive parents may relocate. This information is in subsection H of the proposed regulation.</p> <p>Subsection G in 160 indicates that procedures for establishing eligibility after finalization are the same procedures as before finalization. This information is located in subsection I in the proposed regulation.</p> <p>Subsection H in 160 addresses the required use of an annual affidavit. This is addressed in subsection J of the proposed regulation.</p>	<p>the special needs of the child and circumstances of the adoptive parents;</p> <ul style="list-style-type: none"> • That service payments must be time-limited based on the needs of the child; • The specific types of services that the payments may cover; • How special services are used with Medicaid; • That the special service payments are to be separated on the agreement; • Specific limitations related to limitations of non-recurring expenses; • That payments for non-recurring payments may begin as soon as the child is placed in the home and the agreement is signed; and, • Addresses addendums to the adoption assistance agreement. <p>Subsection F requires that adoption assistance payments and services be negotiated by a representative of VDSS and requires documentation of requests to be considered in the negotiation process. It requires that available family and community resources be considered as a supplement or alternative to an adoption assistance payment. The requirement to consider other family and community resources is in subsection D in the current regulation. The requirement for adoption assistance payments and services to be negotiated by a VDSS representative is not addressed in the current regulation.</p> <p>Subsection G provides that adoption assistance agreements shall be executed by the local board and in this process utilize the adoptive assistance agreement form developed by VDSS. This subsection also indicates that adoption assistance agreements will be entered into by the local board, the adoptive parents and, when appropriate, the LCPA.</p> <p>Subsection H provides a required timeframe for execution and signing of the adoption assistance agreement, as well as what must be specified on the agreements and that the agreement is to remain in effect regardless of the state to which the adoptive parents may relocate. This information is located in subsection</p>
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170		<p>Title of this section is currently "Child placing agency's responsibilities for consent in non-agency adoptive placements."</p> <p>C1 through C5 contains a partial list of exceptions for reporting findings to the Commissioner.</p>	<p>The title of this section is changed to remove reference to consent, which is not addressed in this section.</p> <p>In subsection A, a Code cite is removed which is not applicable to this section. Subsection A 1 provides that the manner in which a family receives a child for adoption will have no bearing on the assessment. Language is added that if asked by the court for a home study, a written report is to be provided.</p> <p>In subsection C, language is added referencing the Code cite for when the child placing agency suspects a violation in the placement or adoption of a child. The incomplete list of exceptions C1 through C5 was removed.</p>
200			<p>In subsection A, "foster care and adoption" worker is changed to "service" worker. This is the terminology used in the guidance manuals.</p> <p>Subsection B language is deleted. VDSS no longer uses the individual training needs assessment process.</p> <p>Subsection C is renumbered and makes the same change to refer to "service" worker.</p>