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Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-920
Regulation title(s)	Appeals of Financial Sanctions for Local Departments of Social Services
Action title	Appeals for Financial Sanctions
Date this document prepared	August 19, 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*.

Subject matter and intent

Please describe briefly the subject matter, intent, and goals of the planned regulatory action.

This regulatory action will provide the local departments of social services (LDSS) with a regulated process for appealing a sanction levied by the Virginia Department of Social Services (VDSS). While VDSS provides local departments the ability to appeal a sanction in various guidance manuals, there is no regulatory authority. A new regulation is the most efficient and effective way to incorporate all applicable requirements to achieve clarity and consistency.

Legal basis

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

The State Board of Social Services (Board) has the authority to promulgate this regulation under §§ 63.2-217 of the *Code of Virginia*.

Based on *Code of Federal Regulations* 45 CFR 92.43(a), VDSS (awarding agency) will provide the LDSS (grantee) an opportunity to appeal an enforcement action to which the LDSS is entitled to under any statute or regulation. Currently, there is no statute or regulation entitling LDSS to appeal an enforcement action.

Purpose

Please describe 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, please explain any potential issues that may need to be addressed as the regulation is developed.

The VDSS needs to provide LDSS the statutory right to appeal an enforcement action. A new regulation will provide clear, understandable requirements for LDSS to decide on appealing an enforcement action and will best protect the health, safety and welfare of the citizens receiving services from LDSS.

Substance

Please briefly identify and explain the new substantive provisions that are being considered, the substantive changes to existing sections that are being considered, or both.

This new regulation will provide LDSS with an appeals process for any enforcement action taken by the agency. The new regulation will describe the appeals process specifically for an LDSS that has an enforcement action taken against it by VDSS. Additional revisions to the regulation content may be proposed based on public comments received.

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.

The following alternatives were considered: (1) make no request for a new regulation and retain the guidance process for appeals of enforcement action; and (2) promulgate a new comprehensive regulation for local departments to appeal enforcement actions.

Due to the variety of guidance manuals, reviews/audits, and reports, it was determined that promulgation of a comprehensive new regulation would be in the best interest of all affected by this regulation. A new regulation will provide clear, understandable requirements for LDSS to decide on appealing an enforcement action and will best protect the health, safety and welfare of the citizens receiving services from the local department.

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. Please include one of the following choices: 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.

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

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 David Morrison, 801 E. Main Street, Richmond, VA 23219, FAX # (804) 726-7480, EMAIL - david.morrison@dss.virginia.gov. 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.

A panel will not be used to assist in the development of this regulatory proposal.
