




COMMONWEALTH of VIRGINIA

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TO: MARGARET SCHULTZE, Commissioner
Virginia Department of Social Services

FROM: ELLEN FULMER MALENKE
Assistant Attorney General 

DATE: July 13, 2016

SUBJECT: Exempt Regulation Section - 22VAC40-670 (Amend Degree Requirements
for Family Services Occupational Group)

I am in receipt of the attached regulation. You have asked the Office of the Attorney General to review and determine if the State Board of the Virginia Department of Social Services has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state and federal law.

This regulatory action serves to clarify the minimum entrance standards for employment for the Family Services Occupational Group. The regulation is being amended to promote the effective recruitment of qualified individuals and to correct a date for consistency with § 63.2-219 of the Code of Virginia.

It is my opinion that the State Board of DSS has the authority to promulgate this regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and has not exceeded that authority.

Further, it is my view that this regulation is not exempt from but is subject to the procedures of Article 2 of the APA pursuant to Virginia Code § 2.2-4006(A)(4)(a). If you have any questions or need additional information about these regulations, please contact me at 786-4856.

cc: Kim F. Piner, Esquire
Attachment

Project 4758 - Fast-Track

DEPARTMENT OF SOCIAL SERVICES

Amend Degree Requirements for Family Services Occupational Group

22VAC40-670-20. Policy.

Section 63.2-219 of the Code of Virginia requires the board to establish minimum entrance and performance standards.

A. In order to be ~~evaluated for vacancies hired for positions~~ in the Family Services Occupational Group, ~~applicants~~ individuals shall possess prior to their employment date a minimum of:

1. ~~Possess a minimum of a~~ A baccalaureate degree in the human services field; or
2. ~~Possess a minimum of a~~ A baccalaureate degree in any field accompanied by a minimum of two years appropriate and related experience in a human services related area; ~~or,~~

B. In order to be evaluated for positions in the Family Services Occupational Group, individuals who do not meet the degree requirement at the time of application must be in their last semester of a degree program that will meet the requirements of subsection A.

3.C. To be considered for promotion, ~~persons~~ individuals currently employed in the Family Services Occupational Group or its equivalent without a break in service by a local department prior to ~~September 1, 1990~~ January 1, 1999, ~~who do not meet the requirements of subdivision 1 or 2 of this section,~~ shall possess:

1. The requirements in subsection A or B; or

~~2. four~~ Four years of appropriate and related experience in a human services area and must have successfully ~~completed all available competency-based~~ required training related to the promotional area.

~~If an individual does not indicate possession of the requirements in subdivision 1, 2, or 3 of this section on the application, he will not be qualified for the position.~~

~~Once the applicant has noted the possession of a baccalaureate degree in the human services field on the application or resume, the evaluation process will continue using knowledge, skill, and ability criteria.~~

D. For individuals who indicate possession of requirements in subsection A, B, or C on the application, the evaluation process will continue using knowledge, skill, and ability criteria. Individuals who do not indicate possession of requirements in subsection A, B, or C, on the application, the individuals will be unqualified and will not be further evaluated.

E. Individuals employed in the Family Services Occupational Group or its equivalent without a break in service by a local department prior to September 1, 1990/January 1, 1999, who do not meet the requirements of subdivision 1, 2, or 3 of this section ~~subsection A~~, will be retained in their current occupational title or any lesser occupational title without having to meet the above requirements. This includes the same occupational title in another local department. These individuals may be considered for employment in the same occupational title in another local department provided that there is no break in service. These individuals will be required to meet the requirements of subdivision 1, 2, or 3 subsection A, B or C of this section for application to any higher occupational title in the Family Services Occupational Group other than their current occupational title.