



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Virginia Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-690-10 ET SEQ.
<b>Regulation Title:</b>	Child Day Care Scholarship Programs
<b>Action Title:</b>	Amend Entire Regulation
<b>Date:</b>	April 19, 2000

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The regulation is being amended to accurately reflect the current scholarship program. The regulation originally was written for the administration of two scholarship programs. The Child Development Associate (CDA) Credential scholarship program was discontinued in 1995. The other scholarship program is the college tuition program and this program currently exists. The current regulation only addresses scholarships for courses taken at the community colleges and the proposed regulation addresses scholarships for courses taken at all Virginia public institutions of higher learning and Virginia private colleges and universities.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

This regulation exists to inform the public of the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. Section 63.1-25 of the Code of Virginia provides the Department with the authority to promulgate this regulation. The Code provides the state board with the authority to develop rules and regulations as may be necessary or desirable to carry out its work. The regulation is not required by federal or state law or regulation. Funding and eligibility information for the college tuition scholarship program is contained in Virginia's Appropriations Acts (Chapter 924 of the 1996-1998 and Chapter 464 of the 1998-2000 Virginia Acts of Assembly) and the Child Care and Development Fund Plan that was submitted to the U.S. Department of Health and Human Services. Specifically, \$600,000 has been set aside each year to be used for scholarships for those who are currently employed or plan to become employed in a child care program for courses in early childhood education or related majors offered at state community colleges or state supported senior institutions of higher education. Currently, there is no mandate or funding set aside for scholarships for persons attending private colleges and universities.

The Office of the Attorney General has reviewed the proposed regulation and has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and federal law.

## Purpose

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

This regulation establishes the process used by the Virginia Department of Social Services to administer the Virginia Child Care Provider Scholarship Program. The regulation is necessary so that the public will be aware of the process for applying for a scholarship and so that the agency may use funds to award scholarships to current and future child care providers. The regulation is required to ensure the efficient and economical performance of this important

governmental function. The amendments to the regulation will accurately reflect the current scholarship program and will remove any misconceptions by the public about the types and benefits of available scholarships.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

Most of the changes contained in the proposed amended regulation have already been incorporated into the Department's procedures. Changes which are new to the regulation and procedure are: (1) The regulation requires additional criteria for being eligible for a scholarship. Recipients will not be able to have more than three occurrences of not registering for a course following receipt of a scholarship award, not completing a course, and not receiving passing final grades (proposed 22 VAC 40-690-30.B.4). The practice of awarding conditional awards for those in jeopardy of becoming ineligible for scholarships because they no longer meet the criteria has been added (proposed 22 VAC 40-690-30.D). These stipulations were added so that recipients can demonstrate responsibility and commitment and the stipulations create a more accountable program. (2) The stipulation that recipients who attended institutions of higher education other than community colleges could only receive up to the amount of community college tuition has been deleted. (current 22 VAC 40-690-20.E and proposed 22 VAC 40-690-30.E and 22 VAC 40-690-30.I) All recipients are eligible to receive approximately the same total monetary amount in scholarships. Recipients will be able to receive scholarships for more community college courses than for other institutions of higher learning as those colleges and universities have higher tuitions which will consume scholarship funds at a faster rate. (3) A new section on appeals has been added (proposed 22 VAC 40-690-35). (4) Proposed 22 VAC 40-690-40.B discusses requirements of those institutions that regularly receive scholarship funds. Currently, the Department only has agreements with the community colleges and this subsection now requires all who regularly receive scholarship funds to follow the same procedures for verification of Virginia residency, billing, and provision of final course grades. This subsection also changes the timing of the billing by the colleges and universities. No real effect on the institutions is expected. All colleges and universities are already determining Virginia residency. All community colleges are already providing the Department with recipient final grades, and most community colleges are already billing after the first class and probably after the official add/drop period (proposed 22 VAC 40-690-40.B). And (5) Proposed 22 VAC 40-690-40.C discusses how courses will be paid for those institutions who have not entered into a written agreement with the Department.

Changes which are new to the regulation, but which have already been incorporated in the Department's procedures, are: (1) 22 VAC 40-690-10 contains changes which have been removed because they are not needed for the operation of the scholarship program. The proposed regulation totally removes all language which pertained to the Child Development Associate Credential Scholarship Program as this program no longer exists (proposed 22 VAC 40-690-10 et seq.). Also, the definitions of a child care provider and a child care program

expand eligibility to receive scholarships. (2) The regulation has been revised to replace all references to “community colleges” with “Virginia public and private colleges and universities” (proposed sections: 22 VAC 40-690-10, 22 VAC 40-690-20.D, 22 VAC 40-690-20.E, 22 VAC 40-690-30.J, 22 VAC 40-690-40, and 22 VAC 40-690-65). This informs recipients that scholarship funds can be used for all types of Virginia based institutions of higher learning. (3) The regulation states that applicants must select the courses they plan to take and verify that those are offered through their choice of institution. No substitutions will be made for failure to follow this procedure (proposed 22 VAC 40-690-20.D and 22 VAC 40-690-20.E). (4) Proposed 22 VAC 40-690-55 states how scholarship funds will be disbursed for both institutions that do and do not have agreements with the Department. (5) Proposed 22 VAC 40-690-60 outlines the types of information the Department will maintain and specified retention. And (6) Proposed 22 VAC 40-690-65 has been added which outlines the responsibilities of the recipients.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term “issues” means: 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 include a sentence to that effect.*

The public will benefit from the changes in the proposed regulation as it will be informed of the current process. The changes outlined in the regulation allow more people to use the scholarship funds at more Virginia institutions. The agency and Commonwealth will benefit by knowing that the regulation is updated and accurate. There are no disadvantages to the public, agency, or Commonwealth because of the changes made to the regulation.

## Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

- (a) There is no projected cost to the state.
- (b) There is no projected cost to the localities.
- (c) This regulation affects current and future child care providers.
- (d) There are approximately 10,000 child care facilities, including homes and centers, that are known to the Department. As most of child care provided in private homes is not regulated, it is impossible to know how many additional people are affected. Funding allows for child care providers to attend all Virginia public institutions of higher learning. At this time, there is no

funding for private institutions. Current funding allows for approximately 5,179 community college courses to be paid for each year using scholarship funds. The total number of courses actually paid is less because not all who are awarded scholarships actually enroll in classes. The total number of courses that can be paid for with scholarship funds decreases when funds are used to purchase courses at other Virginia institutions since the tuition is generally higher than that for courses taught at the community colleges.

## Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

Specifically, the following substantive changes are being proposed:

### Current 22 VAC 40-690-10

The definitions for “CDA,” “Child Development Associate (CDA) credential,” “competency areas,” “Council for Early Childhood Recognition,” “evaluation process,” “family unit,” “income eligibility,” “preapproved,” and “registration and assessment fees” are being deleted as they pertain to the non-existent CDA scholarship credential program. The definition for “state approved program” is being deleted and replaced by “child care program” which is inclusive of all child care programs, not only programs regulated by the Department.

The definitions of “career studies certificate in early childhood” and “foundation course” are being deleted because they are not referenced in the proposed regulation.

The definition for “applicant” is being amended by deleting the reference to the CDA program and incorporating the tuition scholarship program.

The definitions for “child care program,” “child care provider,” “colleges and universities,” “course,” and “department” have been added as they are referenced in the proposed regulation.

### Proposed 22 VAC 40-690-12

A legal base was added to the regulation.

### Proposed 22 VAC 40-690-14

The purpose and intent of the college tuition scholarship program was added. The purpose guides decisions when establishing criteria for awarding scholarships.

## Current 22 VAC 40-690-20

Subsection C was deleted because the “certificate of income verification” pertained to the CDA scholarship program.

The part of current Subsection D which pertains to eligibility requirements is being deleted so that eligibility for the scholarship could be offered to anyone currently employed in or planning to become employed in a child care program as outlined in the Appropriations Act. The criteria which require that recipients be Virginia residents and currently working in a child care program remain, but were moved to 22 VAC 40-690-30.B. (Of note, proposed 22 VAC 40-690-30.B allows recipients to be either currently employed or plan to become employed in a child care program.)

Current Subsection E is being deleted because the practice of making only partial payment for courses at Virginia institutions other than community colleges is being discontinued. Currently, all Virginia public institutions receive the same scholarship amount which is the community college tuition rate. The change will allow for payment of the entire amount of the approved course tuition and technology fee up to the maximum lifetime monetary award at all Virginia public institutions of higher learning and all Virginia private for-profit and not-for-profit colleges and universities. The new process is contained in proposed 22 VAC 40-690-30.E and 22 VAC 40-690-30.I.

Current Subsections F and G (proposed Subsection C) are being revised to reflect the deadline for applications to be received by the Department from one month prior to the beginning of a course to the deadline that is indicated on the application form. The proposed revisions also state that only complete applications received by the application deadline will be considered.

Proposed Subsection D adds the requirement that applicants must verify that the courses they are interested in receiving a scholarship for will be offered by the selected college or university for the designated semester. Failure to do this could result in scholarships which can not be used as outlined in 22 VAC 40-690-20.E.

Proposed Subsection E has been added which identifies the circumstances under which changes can be made to a selected course, college, or university.

## Current 22 VAC 40-690-30

The current section on selection has been revised by deleting all of the criteria contained in the current regulation. Criteria related to the CDA scholarship program were removed. Other criteria were removed because they were unnecessary. Previously, criteria were established because not all who wanted to receive a scholarship were approved because of lack of funding. Currently, there is sufficient funding and it is projected that all who meet the proposed criteria will receive a scholarship.

Proposed Subsection A maintains current requirement for the order in which applications will be processed and stipulates that awards will be made as long as funds are available.

Proposed Subsection B lists the criteria applicants must meet in order to be eligible to receive a scholarship. Applicants must: (1) be Virginia domiciliary residents, (2) be either currently employed in or plan to work in a child care program, (3) select one or two Department approved courses, and (4) have an acceptable track record regarding grades and follow through on awards. Subsection C states that an applicant does not have to be enrolled in or have already taken a course in early childhood education or a related major to be eligible for a scholarship.

Subsections D through K have been added. Subsection D states conditions under which a scholarship will not be awarded and when conditional awards will be issued. Subsections E, F, and I outline the maximum program benefits. Subsection G has been added which stipulates that scholarships can only be used for the semester and the individual that have been approved and Subsection J explains that recipient funds can be applied to more than one institution. Subsection H discusses how a course becomes eligible for scholarship funds. Subsection K states how applicants will be informed of acceptance or denial of their applications.

Proposed 22 VAC 40-690-35

A section has been added which provides for an appeal process for applicants when they are denied scholarships under certain circumstances.

Current 22 VAC 40-690-40

Subsection B is being revised. It states that the department and the institutions will enter into a written agreement and it lists the responsibilities of the colleges and universities for those institutions who regularly accept scholarship funds. These institutions will be responsible for only accepting scholarships for those students who are deemed Virginia domiciliary residents, following Department approved billing procedures, and providing the Department with recipient final course grades. The requirements for verification of Virginia residency and provision of final course grades are new to the regulation. The proposed changes in the billing procedure delay billing the Department until the official add/drop period closes, making reimbursements by the colleges and universities unnecessary. The change in proposed Subsection B makes current Subsection C unnecessary.

Proposed Subsection C discusses the process for those institutions that do not have a written agreement with the Department.

Current 22 VAC 40-690-50

This entire section is being deleted because it solely pertained to the CDA Scholarship program.

Proposed 22 VAC 40-690-55

This section has been added which states how disbursements will be made.

Current 22 VAC 40-690-60 and 22 VAC 40-690-70

These two sections were combined and the requirements revised as needed. Current 22 VAC 40-690-60 contains wage verification that was required for those seeking a CDA credentialing scholarship. As this only pertained to CDA credentialing scholarships, this section is being deleted. Proposed material discusses types of information the Department will gather and maintain and the specified retention period.

Proposed 22 VAC 40-690-65

This section was added to list the responsibilities of the recipients. Specifically, recipients are responsible for providing the Department with final grades for courses paid by the scholarship program, participating in Department surveys relating to the scholarship program, and assuming responsibilities for some of the expenses relating to attending colleges and universities.

Forms

A list of required forms is contained in the regulation. The current regulation lists two forms. The “Virginia Child Care Provider Scholarship Program Certificate of Income Form” is being deleted as it solely pertained to the CDA scholarship program. The “Virginia Child Care Provider Scholarship Program Application Form” will remain.

## Alternatives

*Please describe the specific 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.*

The Department considered, prior to revising the regulation, whether a regulation needed to exist since it is primarily a process. The Department believed that it could operate the program without a regulation. The Department conferred with the Office of the Attorney General on this matter and it was determined that a regulation was necessary.

The Department then proceeded to revise the regulation by replacing the current regulation with a more accurate and up-to-date process. An ad hoc advisory committee was formed which assisted the Department with developing a simple, easy to understand process that will be used by potential scholarship recipients and Virginia’s colleges and universities. The proposed regulation is brief and only contains minimum requirements. No less burdensome and less intrusive alternatives exist.



**Public Comment**

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

Thirteen comments were received during the initial 30-day public comment period. Those that commented were very supportive of the scholarship program and want it to continue. Many of the commentators were program recipients who are very appreciative of the program and stated that without the funds they would have never been able to afford to attend college. Many of the commentators stated that this is a lowly paid profession and that the continuation of the program was critical if there was any hope that attending college was a real option for child care providers.

One of the commentators wanted the program funds to cover even more expenses for those committed to the child care profession. Several commentators raised the issues of paying for textbooks, child care for those who need it, and adding more courses. Two commentators suggested expanding the number of courses so recipients could actually earn an associate's or bachelor's degree using scholarship funds. Agency response: Textbooks and child care are not items that will be paid for by the scholarship program. This decision takes into account the current needs of providers and the funds available. By continuing to pay only for tuition, the program is able to serve the most people and to support child care providers having a foundation in child care and child development. The Department will be expanding the choice of courses, but will maintain the same maximum lifetime monetary award per recipient.

One commentator stated that recipients should sign a statement stating that they will remain in child care for at least 12 months following their scholarship award. Agency response: It was decided not to add this stipulation. This decision is based on the fact that the knowledge is not lost as providers use it when interacting with children in their personal and professional lives. The fact that recipients work for low wages is the reason for frequent turnover. The costs involved in recovering the award money, and a 12 months stipulation seemed excessive for such small awards.

One commentator suggested that we continue to only pay the community college rate for any applicant. This would pay for an entire community college course and part of a two-year college or four-year college or university course. Agency response: The Department has decided to pay for entire courses, but each individual will have the same maximum lifetime monetary award to use toward his or her education. This decision is based on actually supporting persons attending courses at the senior institutions of higher learning. A scholarship that only pays for a portion of the course tuition might not provide any real help to recipients attempting to attend these colleges or universities.

Two commentators were concerned that the regulation only referenced the Child Development Associate (CDA) Credential and did not discuss other training programs. Agency response: The Department is aware that the regulation contains references to the CDA because the regulation originally covered the now-ended Child Development Associate Credential Scholarship Program. All references to the CDA scholarship program have been removed.

One commentator stated that he hoped the Board of Social Services will consult with the Child Day-Care Council, as required by law, as it reviews and revises training programs.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

The agency reviewed the regulation for ease of understanding. Changes were made to areas where it was determined that it could be made clearer. No comments were received during the initial public comment period that indicated the regulation was unclear or difficult to understand.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

The agency will begin a review of this regulation three years from its effective date unless legislative changes or other circumstances require an earlier revision.

The goals for this regulation are to provide an equitable and simple method for child care providers to apply for college tuition assistance and to expend the total allotted amount on tuition scholarships.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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 regulation has a positive impact on Virginia families. It allows child care providers to increase their knowledge and skills in areas that are relevant to the care of children by allowing them to take college courses at a very low cost to them. Children in child care and their parents benefit by receiving care from providers who are expanding their knowledge and skills.

This program and regulation have no real effect on the authority and rights of parents in the education, nurturance, and supervision of their children. The expected outcome of child care providers obtaining additional education is that there is an increase in their skills and knowledge. Another outcome from attending courses related to child care would likely be increased knowledge and skills of the provider in working in partnership with parents, a theme emphasized in most child care courses. This could only support parents in their education, nurturance, and supervision of their children.

In the areas of economic self-sufficiency and self-pride, this program promotes and has as a likely outcome both increased self-sufficiency and self-pride. Increased education often leads to increased income. Success in academic pursuits improves one's self-esteem. Frequently, students in child care courses receive emotional support from fellow students and their professors. Regarding assumption of responsibility for one's family and oneself, the potential for increased earning level and for acquisition of social interaction skills can have a positive effect on how scholarship recipients care for themselves and their families. As a long range potential effect, studies show that children in good child care typically do better in school and in their adult roles than do children in poorer care settings.

The regulation has no intended impact on marital commitment. If there should be any unintended impact, it should be positive in that the financial strains on the marriage might be lessened by an increase in the family's income because the child care provider's increased education and improved performance lead to a promotion or salary increase. In most instances, an increase in self-esteem would positively impact the marital relationship.

It is projected that the regulation will have a positive impact on the recipient's disposable family income. Increased knowledge and skills has the anticipated result of increased family income. It is quite possible that recipients' family income may increase as a result of attending college. It's possible that the family income of the recipients' customers could decrease because as quality of care improves, additional monies may be needed to retain a more qualified child care provider in his or her current position. If this were to occur, it should have a very small financial impact on families. Child care rates normally increase because of cost of living expenses which is usually marginal. The immediate and long range benefits to children and their families for receiving care from a more qualified provider outweighs any small incremental increases in the cost of care.

In summary, this regulation is pro-family and promotes self-sufficiency, self-pride, and responsibility for oneself and one's family.