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Exempt Action: Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-705
VAC Chapter title(s)	Child Protective Services
Action title	Amend CPS Regulation 2023
Final agency action date	August 16, 2023
Date this document prepared	August 16, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

This regulatory action is necessary to implement the requirements of legislation passed during the 2023 Session of the Virginia General Assembly.

Chapter 771 (House Bill 1550) of the 2023 Acts of Assembly allows a teacher licensed by the Board of Education or through an alternative pathway and employed by a local school board to petition the circuit court in the jurisdiction of the local department for a trial de novo, by judge or jury, within 30 days of the appellant's receipt of the state hearing officer's decision. This replaces the existing appeal procedure for a judicial review of the agency action or the state hearing officer's decision under the Administrative Process Act for licensed teachers. The regulation requires amendments to reflect the changes to §§ 22.1-298.1, 22.1-307, and 63.2-1526 of the Code of Virginia.

Chapter 170 (House Bill 1768) of the 2023 Acts of Assembly establishes that if a local multi-disciplinary team determines that an interview of a child at a child advocacy center (CAC) is needed and it cannot be completed within 14 days within the jurisdiction of the local department of social services (LDSS), the LDSS may facilitate the interview with a CAC in another jurisdiction. The regulation requires amendments to reflect this addition to § 63.2-1505 of the Code of Virginia.

Chapter 568 (Senate Bill 1367) of the 2023 Acts of Assembly clarifies that the definition of an abused or neglected child excludes a child whose parents or other person responsible for their care allows the child to participate in reasonable independent childhood activities, such as traveling to and from school by bicycle or foot, playing outdoors, and staying home alone for reasonable period of time. The reasonable independent childhood activities must be appropriate based on the child's age, maturity, and physical and mental abilities. The regulation requires amendments to reflect these changes to §§ 16.1-228 and 63.2-100 of the Code of Virginia.

Mandate and Impetus

Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."

Section § 63.2-217 of the Code of Virginia gives the State Board of Social Services the responsibility to make rules and regulations to administer social services in the Commonwealth under Chapter 15 (63.2-1500 et seq.) of Title 63.2 of the Code of Virginia. The impetus for the changes is 2023 General Assembly action.

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.

The State Board of Social Services approved the exempt action for 22VAC40-705, Child Protective Services, on August 16, 2023.