



**Virginia
Regulatory
Town Hall**

Notice of Intended Regulatory Action Agency Background Document

Agency Name:	Department of Social Services
VAC Chapter Number:	22 VAC 40-730-10 et al.
Regulation Title:	Investigation of Child Abuse and Neglect in Out of Family Complaints
Action Title:	Implement Joint Investigations
Date:	August 16, 2000

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

These regulations affect child abuse and neglect investigations involving staff in designated out of family settings. Designated out of family settings are for the purpose of this chapter settings that include, state licensed and religiously exempted child day centers; regulated family day homes; private and public schools; group residential facilities; and hospitals or institutions. Chapter 854, 2000 Acts of Assembly made changes to Title 63.1 of the Code of Virginia to amend and reenact Section 63.1-248.6 of the Code, in order to emphasize that child protective services designated out of family investigations are to be conducted as joint investigations. These regulations clarify how a facility administrator can participate with the child protective services social worker in the joint investigation involving one or more of the facility's employees, as per Chapter 854.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory

action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The statutory authority for promulgating this regulation is found in Title 63.1 Welfare (Social Services) of the Code of Virginia. Chapter 12.1, Section 63.1-248 et seq. of the Virginia Code places responsibility for providing protective services for children with the Department of Social Services. Chapter 1, Section 63.1-25 places authority with the Board of Social Services to make rules and regulations consistent with the Virginia Code Section 63.1-248.1 et seq. These regulations are necessitated by legislation enacted by the 2000 General Assembly session.

The Office of the Attorney General has reviewed these regulations and has certified that the agency has the statutory authority to promulgate regulations and they comport with applicable state and federal laws.

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

Changes in the language of this regulation are intended to emphasize the joint nature of designated out of family investigations of child abuse or neglect and to clarify the roles of the parties participating in the investigation.

- Section 10: The changes to the definition of "Central Registry" simply bring this definition into conformity with that definition in other CPS regulations. The definition of "Participate" is intended to explain the joint nature of these investigations.
- Section 40: This additional line emphasizes participation by all relevant parties in the joint investigation.
- Section 50: These word changes underscore the requirement to involve other professionals in the investigation, even if there is no state regulatory authority to participate.
- Section 70: This language addresses the need to involve all relevant parties in the planning of the interviews in a joint investigation.
- Sections 80 and 90: Final authority is vested in the CPS agency for determining who will participate in interviews when there appears to be a conflict of interest.

- Section 100: An editorial change.

These proposed regulatory changes are essential to comply with the changes to the Code. They replace the emergency regulations which are identical in form and content.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The 2000 General Assembly addressed identified concerns about designated out of family investigations in the least intrusive way by simply emphasizing the joint or collaborative nature of these investigations. These regulatory changes are considered to be the minimal changes to meet the purposes of the legislative action.

Family Impact Statement

Please provide a preliminary analysis of the potential impact of the proposed 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.

These regulatory changes are expected to have minimal, if any, impact on families. From the family's viewpoint, this regulation will not significantly change the way designated out of family CPS investigations are conducted in such settings as schools, child day care centers or other child care facilities. It does not strengthen or erode parental authority. It does provide additional authority to regulatory staff and facility staff in these settings for participation in the investigation. These changes do not encourage or discourage self-sufficiency or assumption of responsibility of individuals in families. It does encourage other professionals to take responsibility for participation in these investigations. There is no apparent relation to marital commitments or family income.