

Office of Regulatory Management
Economic Review Form

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	N/A
VAC Chapter title(s)	N/A
Action title	N/A
Date this document prepared	October 30, 2023
Regulatory Stage (including Issuance of Guidance Documents)	Issuance of Guidance Document-LDSS Administrative/HR Manual Chapters 2, 4 & 5

Cost Benefit Analysis

Complete Tables 1a and 1b for all regulatory actions. You do not need to complete Table 1c if the regulatory action is required by state statute or federal statute or regulation and leaves no discretion in its implementation.

Table 1a should provide analysis for the regulatory approach you are taking. Table 1b should provide analysis for the approach of leaving the current regulations intact (i.e., no further change is implemented). Table 1c should provide analysis for at least one alternative approach. You should not limit yourself to one alternative, however, and can add additional charts as needed.

Report both direct and indirect costs and benefits that can be monetized in Boxes 1 and 2. Report direct and indirect costs and benefits that cannot be monetized in Box 4. See the ORM Regulatory Economic Analysis Manual for additional guidance.

Table 1a: Costs and Benefits of the Proposed Changes (Primary Option)

<p>(1) Direct & Indirect Costs & Benefits (Monetized)</p>	<p>The Virginia Social Services System is state-supervised and locally administered. Local Departments of Social Services (LDSS) do not follow the same personnel policies that the Virginia Department of Social Services (VDSS) follow because, unlike VDSS, LDSS employees are employees of their individual localities and are not employed by the Commonwealth of Virginia.</p> <p>The Local Department of Social Services (LDSS) Administrative/HR Manual (known hereafter as “the Manual”) serves as a personnel manual for local departments who do not have direct human resources support or do not have locality personnel policies that are comparable to those in the Manual. VDSS Human Resources (HR) is the author of the Manual and is responsible for any updates or revisions. VDSS HR acts in a consultative capacity with the LDSS regarding the contents of the Manual. The LDSS and the LDSS Board (either Administrative or Advisory), in conjunction with the leadership and legal counsel for the locality, are responsible for making formal decisions based on any consultative recommendations made by VDSS.</p> <p>The policies set forth in the Manual are approved by the Virginia State Board of Social Services, and authority for the Manual comes from §§ 63.2-217 & 219 of the Code of Virginia. Administrative Code of Virginia 22VAC40-675 §§ 10-220 specify the regulatory requirements related to the contents and use of the Manual.</p> <p>Recently, an issue arose in a locality requiring clarification of the Manual in relation to both “Hours Worked” under the Federal Labor Standards Act (FLSA; 29 C.F.R. Part 541) and the recordkeeping requirements of the FLSA (29 U.S. Code § 211). VDSS HR has revised specific portions of three separate chapters of the Manual that cover these areas of the FLSA, and administrative tasks associated with the changes. The revised chapters are Chapter 2, Classification & Compensation; Chapter 4, Leave; and Chapter 5, LDSS Operations.</p> <p>The changes are discussed specifically in (4) of this table and are listed under non-monetized changes. It is impossible to calculate a reliable dollar amount due to the fact that there are 120 separate localities in Virginia and a number of factors that would contribute to either the cost or benefit that may vary from locality to locality.</p> <p>For instance, costs related to incorrect calculation of hours worked and accrual of leave are dependent on a large variety of factors (types of leave accrued incorrectly, length of time of incorrect accrual, number of employees at the agency, number of separated agency employee who have received incorrect leave payouts, federal reimbursement amounts,</p>
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	etc.). Also, federal reimbursement dollars and any FLSA violations would depend on a wide variety of factors related to the type of violation(s) (FLSA), number of affected employees, length of time the miscalculation. occurred, etc.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unknown	(b) Unknown
(3) Net Monetized Benefit	<p>For VDSS, reduced complexity of the chapters related to correct calculation of hours worked:</p> <ol style="list-style-type: none"> 1. Prevents miscalculation of federal reimbursement dollars received by the local department in relation to both hours worked and leave accrual. 2. Reduces the number of questions VDSS HR receives from the local departments regarding clarification on these points. <p>For LDSS, reduced complexity of the chapters related to correct calculation of hours worked:</p> <ol style="list-style-type: none"> 1. Time savings from dealing with these matters that can be focused on aiding Virginia citizens/families. 2. Prevention of loss of staff due to miscalculated pay and leave. 3. Prevents agency costs related to incorrect leave accrual calculations and compensation miscalculations. 4. Prevents miscalculation of federal reimbursement dollars received by the local department in relation to both hours worked and leave accrual. 5. Prevents localities from having to allocate local funds to make up for miscalculations. 6. Prevents overtime calculation violations of the FLSA for non-exempt staff and recordkeeping violations for both exempt and non-exempt staff. <p>See section (4) for a thorough description of the revisions to the Manual.</p>	
(4) Other Costs & Benefits (Non-Monetized)	<p>The changes referred to in (1) are as follows:</p> <ol style="list-style-type: none"> 1. Revision to Chapter 2 of the LDSS Administrative/HR Manual (Classification & Compensation): <ol style="list-style-type: none"> a. Pg. 29 – Part A.1 Revision of the definition of “work” to include language clarifying that the definition of work is the same for all LDSS employees regardless of exempt or 	

non-exempt status as defined under the Federal Labor Standards Act (FLSA; 29 C.F.R. Part 541).

- b. Pg. 29 – Part A.2 (a)(2) & (3) Clarification that breaks of 15 minutes or less and meal breaks less than 30 minutes are paid.
- c. Pg. 29 – Part A.2 (b)(5) Clarification that breaks of up to 15 minutes and meal breaks longer than 30 minutes if the employee is completely relieved of all duties are to be unpaid.
- d. Pg. 32 – Part B.5 Inclusion of a requirements for LDSS to:
 - i. Accurately calculate the number of hours worked for an employee based on the weekly schedule adopted by the LDSS. The LDSS has the option to adopt a weekly schedule of either 40 hours, 37.5 hours, or 35 hours.
 - ii. Only compensate employees for the number of hours actually worked.
- e. Pg. 44 – Part F. Addition of the requirements that the adopted weekly schedule (40, 37.5, or 35-hour week) of both exempt and non-exempt employees be accurately reflected in recordkeeping documents and that employees are only compensated for the number of hours actually worked. These revisions are based on FLSA recordkeeping requirements (29 U.S. Code § 211).

2. Revisions to Chapter 4 of the LDSS Administrative/HR Manual (Leave):

- a. Pg. 45 – Part A.1(d) Revision of requirements for annual leave accrual. Additional requirement for the LDSS to accurately prorate the amount of annual leave based on the adopted weekly schedule of the LDSS (40, 37.5, or 35-hour week); update of a table illustrating the proration amounts for the different weekly schedule options.
- b. Pg. 67 – Part B.1(d) Revision of requirements for traditional sick leave accrual. Additional requirement for the LDSS to accurately prorate the amount of traditional sick leave based on the adopted weekly schedule of the LDSS (40, 37.5, or 35-hour week).
- c. Pg. 74 – Part A.1(e) Revision of requirements for sick leave accrual under the Disability Leave Program (DLP). Additional requirement for the LDSS to accurately prorate the amount of sick leave under the DLP based on the adopted weekly schedule of the LDSS (40, 37.5, or 35-hour week).

	<p>d. Pg. 78 –Part A.1(f) Revision of requirements for family and personal leave accrual under the DLP. Additional requirement for the LDSS to accurately prorate the amount of family and personal leave under the DLP based on the adopted weekly schedule of the LDSS (40, 37.5, or 35-hour week).</p> <p>3. Revision to Chapter 5 of the LDSS Administrative/HR Manual (Operations of the LDSS):</p> <p>a. Pg. 4 – Part B.1 on this page gives the local director the authority to set and change the weekly work schedule of the LDSS (40 hours, 37.5 hours, or 35 hours). Language has been added to this part to reiterate the requirements to accurately reflect the adopted weekly schedule in the calculation and recordkeeping of hours worked for all LDSS employees and to only compensate employees for the number of hours actually worked.</p> <p>b. Pg. 4 – Part B.3 (a)(2) Clarification to the statement that the “lunch period is not counted in the total required hours of work per day.” The lunch break is unpaid time, and rest breaks of 15 minutes or less are paid time.</p> <p>c. Pg. 4 – Part B.3 (a)(3) Clarification to the statement, “On the occasion when the designated lunch break is part of the work schedule (e.g., to provide staffing for client services), the lunch period will count as hours worked,” to indicate that in these situations, the lunch break is paid time.</p>
(5) Information Sources	N/A

Table 1b: Costs and Benefits under the Status Quo (No change to the regulation)

(1) Direct & Indirect Costs & Benefits (Monetized)	Based on the number of localities and other variables, it is not possible to estimate direct/indirect costs. See Table 1a. (1) for more information.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unknown	(b) Unknown
(3) Net Monetized Benefit		

(4) Other Costs & Benefits (Non-Monetized)	If the guidance documents are not revised, the current state of the chapter could lead to instances of incorrect calculation of hours worked and leave accrual and potential violations of the FLSA described in Table 1a (3) and (4).
(5) Information Sources	

Table 1c: Costs and Benefits under Alternative Approach(es)

(1) Direct & Indirect Costs & Benefits (Monetized)	There are no alternative approaches.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Net Monetized Benefit	N/A	
(4) Other Costs & Benefits (Non-Monetized)	If the guidance documents are not revised, the current state of the chapter could lead to instances of incorrect calculation of hours worked and leave accrual and potential violations of the FLSA described in Table 1a (3) and (4).	
(5) Information Sources	N/A	

Impact on Local Partners

Use this chart to describe impacts on local partners. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 2: Impact on Local Partners

(1) Direct & Indirect Costs & Benefits (Monetized)	Direct Costs: N/A Indirect Costs: N/A Direct Benefits: N/A Indirect Benefits: N/A
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unknown	(b) Unknown
(3) Other Costs & Benefits (Non-Monetized)	<p>Revisions described in Table 1a(3) and (4): Local partners (the locality) would see the direct benefits described there as well.</p> <p>For the local departments of social services - reduced complexity of the chapters related to correct calculation of hours worked:</p> <ol style="list-style-type: none"> 1. Prevents agency costs related to incorrect leave accrual calculations and compensation miscalculations. 2. Prevents miscalculation of federal reimbursement dollars received by the local department in relation to both hours worked and leave accrual. 3. Prevents localities from having to allocate local funds to make up for miscalculations. 4. Prevents overtime calculations violations of the FLSA for non-exempt staff and recordkeeping violations for both exempt and non-exempt staff. 	
(4) Assistance	N/A	
(5) Information Sources	N/A	

Impacts on Families

Use this chart to describe impacts on families. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 3: Impact on Families

(1) Direct & Indirect Costs & Benefits (Monetized)	<p>Direct Costs: N/A</p> <p>Indirect Costs: N/A</p> <p>Direct Benefits: N/A</p> <p>Indirect Benefits: N/A</p>
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(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) Unknown	(b) Unknown
(3) Other Costs & Benefits (Non-Monetized)	The revision of these guidance documents would impact families in that it would help to prevent these issues from occurring in the future. Freeing up time previously spent to address these issues allows more time for the LDSS to directly serve Virginia families.	
(4) Information Sources		

Impacts on Small Businesses

Use this chart to describe impacts on small businesses. See Part 8 of the ORM Cost Impact Analysis Guidance for additional guidance.

Table 4: Impact on Small Businesses

(1) Direct & Indirect Costs & Benefits (Monetized)	The revision of these guidance documents would not impact small business. Direct Costs: N/A Indirect Costs: N/A Direct Benefits: N/A Indirect Benefits: N/A.	
(2) Present Monetized Values	Direct & Indirect Costs	Direct & Indirect Benefits
	(a) N/A	(b) N/A
(3) Other Costs & Benefits (Non-Monetized)	N/A	
(4) Alternatives	N/A	
(5) Information Sources	N/A	

Changes to Number of Regulatory Requirements

Table 5: Regulatory Reduction

For each individual action, please fill out the appropriate chart to reflect any change in regulatory requirements, costs, regulatory stringency, or the overall length of any guidance documents.

Change in Regulatory Requirements

VAC Section(s) Involved*	Authority of Change	Initial Count	Additions	Subtractions	Net Change
				Total Net Change of Statutory Requirements:	0
				Total Net Change of Discretionary Requirements:	

Cost Reductions or Increases (if applicable)

VAC Section(s) Involved*	Description of Regulatory Requirement	Initial Cost	New Cost	Overall Cost Savings/Increases
N/A	N/A	N/A	N/A	N/A

Other Decreases or Increases in Regulatory Stringency (if applicable)

VAC Section(s) Involved*	Description of Change	Overview of How It Reduces or Increases Regulatory Burden

Length of Guidance Documents (only applicable if guidance document is being revised)

Title of Guidance Document	Original Length	New Length	Net Change in Length
Guidance Document: Chapter 2 of LDSS Admin/HR Manual	62 pages	62 pages	0
Guidance Document: Chapter	62 pages	62 pages	0

4 of LDSS Admin/HR Manual			
Guidance Document: Chapter 5 of LDSS Admin/HR Manual	17 pages	17 pages	0

*If the agency is modifying a guidance document that has regulatory requirements, it should report any change in requirements in the appropriate chart(s).