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Periodic Review and Small Business Impact Findings Where Result is "Retain the Regulation As Is"

Agency name	Department (Board) of Juvenile Justice
Virginia Administrative Code (VAC) citation	6VAC35-11
Regulation title	Public Participation Guidelines
Date	June 25, 2015

This information is required pursuant to Executive Order 17 (2014).

Legal basis

Please identify the state and/or federal legal authority for the regulation, including: 1) the most relevant law and/or regulation; and 2) promulgating entity, i.e., agency, board, or person.

The *Code of Virginia* requires each agency subject to the Virginia Administrative Process Act to develop, adopt, and use public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. Additionally, the *Code of Virginia* authorizes the Board to promulgate such regulations as may be necessary to carry out the provisions of Title 66 and other laws of the Commonwealth.

Section 2.2-4007.02 of the Code of Virginia

A. Public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations shall be developed, adopted, and used by each agency pursuant to the provisions of this chapter. The guidelines shall set out any methods for the identification and notification of interested parties and any specific means of seeking input from interested persons or groups that the

agency intends to use in addition to the Notice of Intended Regulatory Action. The guidelines shall set out a general policy for the use of standing or ad hoc advisory panels and consultation with groups and individuals registering interest in working with the agency. Such policy shall address the circumstances in which the agency considers the panels or consultation appropriate and intends to make use of the panels or consultation.

B. In formulating any regulation, including but not limited to those in public assistance and social services programs, the agency pursuant to its public participation guidelines shall afford interested persons an opportunity to (i) submit data, views, and arguments, either orally or in writing, to the agency, to include an online public comment forum on the Virginia Regulatory Town Hall, or other specially designated subordinate and (ii) be accompanied by and represented by counsel or other representative. However, the agency may begin drafting the proposed regulation prior to or during any opportunities it provides to the public to submit comments.

§ 66-10. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To establish and monitor policies for the programs and facilities for which the Department is responsible under this law.
2. To ensure the development of a long-range youth services policy.
3. To monitor the activities of the Department and its effectiveness in implementing the policies developed by the Board.
4. To advise the Governor and Director on matters relating to youth services.
5. To promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth.
6. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department.
7. To establish length-of-stay guidelines for juveniles indeterminately committed to the Department and to make such guidelines available for public comment.
8. To adopt all necessary regulations for the management and operation of the schools in the Department except that the regulations adopted hereunder shall not conflict with regulations relating to security of the institutions in which the juveniles are committed

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There were no viable alternatives for achieving the purpose of this regulation. The *Code of Virginia* (§2.2-4007.02) requires each agency subject to the Virginia Administrative Process Act to develop, adopt, and use public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.

Public comment

Please summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
NA	NA	NA

No comments were received during the public comment period which ran from May 4, 2015 through May 29, 2015. An informal advisory group was not formed for purposes of assisting in the periodic review.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 17 (2014), e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The Public Participation Guidelines are clearly written and easily understandable. The regulations are necessary for the protection of public health, safety, and welfare. The regulations ensure the public can request to be notified when the Department pursues a regulatory action. Additionally, the public has an opportunity to submit public comments at every stage of the regulatory process. Public participation in the regulatory process permits provides the public the opportunity to bring any concerns related to the protection of public health, safety, and welfare to the attention of the Board.

Result

Please state that the reason why the agency is recommending that the regulation should stay in effect without change.

The regulation should stay in effect without change because it meets the statutory requirements of the Virginia Administrative Process Act. The *Code of Virginia* (§2.2-4007.02) requires each agency subject to the Virginia Administrative Process Act to develop, adopt, and use public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations. As part of the

review process, the Department assessed whether any changes or clarifications were needed. The conclusion was reached that no revisions to the regulation were necessary and maintaining this regulation is in keeping with the requirements of the Administrative Process Act.

Small business impact

In order to minimize the economic impact of regulations on small business, please include, pursuant to § 2.2-4007.1 E and F, a discussion of the agency's consideration of: 1) the continued need for the regulation; 2) the nature of complaints or comments received concerning the regulation from the public; 3) the complexity of the regulation; 4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and 5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, include a discussion of the basis for the agency's determination to retain the regulation as is, consistent with the stated objectives of applicable law, to minimize the economic impact of regulations on small businesses.

This regulation has no impact on small business.

- 1) The *Code of Virginia* (§2.2-4007.02) requires each agency subject to the Virginia Administrative Process Act to develop, adopt, and use public participation guidelines for soliciting the input of interested parties in the formation and development of its regulations.
- 2) No comments or complaints have been received regarding this regulation.
- 3) The regulation is not complex and clearly outlines the requirements for notice and the timelines for public comment.
- 4) The regulation duplicates the requirements of the Virginia Administrative Process Act. The regulation does not conflict with federal or state law or regulation.
- 5) The regulation was last reviewed in September of 2008. As part of the review process, the Department assessed whether any changes or clarifications were needed. The conclusion was reached that no revisions to the regulation were necessary and maintaining this regulation is in keeping with the requirements of the Administrative Process Act.