



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-100
Regulation title	Minimum Standards for Licensed Child-Caring Institutions
Document preparation date	April 20, 2005

This form is used when the agency has done a periodic review of a regulation and plans to retain the regulation without change. This information is required pursuant to Executive Orders 21 (2002) and 58 (1999).

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.

Section 63.2-217 of the Code of Virginia gives the State Board of Social Services authority to promulgate this regulation. The regulation does not exceed the scope of this mandate. Section 63.2-1737 of the Code of Virginia provides that any child-caring institution licensed as of January 1, 1987, and that receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as adopted by the Board and in effect on January 1, 1987.

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 are no alternatives to this regulation without legislative action. The Code of Virginia mandates that the child-caring institutions licensed as of January 1, 1987 and that receive no public funds shall be licensed under minimum standards for licensed child-caring institutions in effect of as of January 1, 1987. Therefore, this regulation cannot be amended. There are currently six child-caring institutions in this

category. If the Code of Virginia were amended, these facilities could be licensed under 22 VAC 42-11, Standards for Interdepartmental Regulation of Children’s Residential Facilities.

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.

No comments were received.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The purpose of this regulation is to establish minimum standards of care to protect children who are placed in child-caring institutions by their parents or legal guardians. The standards govern the sponsorship, organization and administration, personnel, buildings and grounds, programs, services, and record-keeping requirements in these facilities.

The regulation is clear and easily understood, but some of the standards are outdated and inaccurate. There are references to Code sections that have been amended since 1987, and outdated Code sections are included in the text of the regulation. However, the Code does not permit the Board to revise the regulation. The State Board of Social Services believes that all child-caring institutions should be licensed under the Standards for Interdepartmental Regulation of Children’s Residential Facilities, which are more current and reflect the thinking of experts in the field of child welfare and the majority of providers of residential care of children.

Result

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

The Department of Social Services recommends that this regulation remain in effect. Revisions are needed but cannot be made without legislative action.

Family impact

Please provide an analysis of the regulation’s impact on the institution of the family and family stability.

To a minimum degree the regulation strengthens the authority and rights of parents who place their children in these facilities. Written consent for the child’s placement in the institution is given by the parents and cooperation between parent and administration is required. Placement of a child is allowed without surrender of parental rights. Visitation between parent and child is encouraged through flexible visitation hours.

The regulation has no impact on the economic self-sufficiency, self-pride or on the assumption of responsibility for oneself, one's spouse or one's children. It has no impact on marital commitment or on disposable family income.