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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation(s)	22VAC40-211
Regulation title(s)	Resource, Foster and Adoptive Home Approval Standards
Action title	Amend Resource, Foster and Adoptive Home Approval Regulation
Date this document prepared	Dec. 13, 2017

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.

This regulatory action addresses standards for foster and adoptive homes approved by local departments of social services (LDSS). Historically, the term “resource parent” was intended to refer to a person who was a foster parent with the intent to adopt. “Resource” has been changed to “foster” and “adoptive,” in order to be consistent with the Code of Virginia, which does not use the term “resource.”

The definition of “caretaker” has been updated to match Child Protective Services (CPS) regulations and guidance; the term “variances” has been changed to “waivers” to be consistent with the Code of Virginia; and, the term “provider” is amended by adding “relative” to clarify that the use of waivers are only for relatives.

The regulatory action clarifies that foster and adoptive parents are mandated reporters of child abuse and must receive mandated reporter training.

Based upon recommendations from Virginia Department of Social Services regional consultants and input from the regulation review workgroup, training requirements have been updated to require any LDSS and other child welfare worker that approves foster and adoptive families to receive training on preparing a mutual family assessment.

Acronyms and Definitions

Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.

- LDSS- local departments of social services
- VDSS- Virginia Department of Social Services
- CRAFFT-Consortium for Resource, Adoptive and Foster Family Training
- LCPA-Licensed Child Placing Agency
- MFA-Mutual Family Assessment

Statement of final agency action

Please 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.

On December 13, 2017, the State Board of Social Services approved the final stage for 22VAC40-211 Resource, Foster and Adoptive Home Approval Standards.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant citations to the Code of Virginia or General Assembly chapter number(s), if applicable; and 2) promulgating entity, i.e., agency, board, or person. Your citation should include a specific provision authorizing the promulgating entity to regulate this specific subject or program, as well as a reference to the agency/board/person's overall regulatory authority.

The legal authority for this regulation can be found in §§ 63.2-217 and 63.2-901.1. These sections provide general authority to the State Board of Social Services for developing regulations for foster and adoptive home approval standards and specific authority related to waivers for relative providers.

Purpose

Please explain the need for the new or amended regulation. Describe the rationale or justification of the proposed regulatory action. Describe the specific reasons the regulation is essential to protect the health, safety or welfare of citizens. Discuss the goals of the proposal and the problems the proposal is intended to solve.

The amended regulation will address changes made to § 63.2-900.1, which permits waivers to be granted to relative foster care providers when meeting the approval standards. The regulation clarifies certain procedures and training requirements for foster and adoptive families, LDSS staff, child welfare staff, and children by ensuring that foster children are placed in safe and appropriate homes. Requiring LDSS staff

and other child welfare staff who complete mutual family assessments to be trained and requiring annual in-service training for foster and adoptive parents is essential to protect the health, safety and welfare of citizens by improving the quality of the approval process and contributing to the ongoing development of skills and knowledge of the families caring for foster children. The goal of this amended regulation is to provide consistency with the current Code.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both.

Substantive changes to the regulation include changing language regarding “resource families,” as the Code does not address “resource families”; replacing “home study” with “mutual family assessment”; adding the definition of “kinship foster parent” and “foster care placement;” changing language to restrict variances to relative/kinship foster homes; requiring that child welfare staff who complete mutual family assessments, previously known as home studies, receive training to do so; requiring foster and adoptive parents to report significant changes to their home or circumstances; requiring that LDSS provide mandated reporter training to foster and adoptive parents; requiring that approved foster and adoptive parents complete in-service training annually; and revising requirements regarding the time period for providers to obtain a new physical.

Issues

Please identify the issues associated with the proposed regulatory action, including: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please indicate.

Training for LDSS staff, other child welfare staff completing mutual family assessments and foster and adoptive parents is currently provided by the Consortium for Resource, Adoptive and Foster Family Training (CRAFFT) regional coordinators. The CRAFFT program is funded by state and federal monies and administered by the Virginia Department of Social Services (VDSS). Therefore, the provision of training will not pose a disadvantage to the LDSS. Because CRAFFT coordinators are regionally based, they are able to offer LDSS staff and other child welfare staff trainings both at the regional offices and also to travel to larger agencies or clusters of agencies to provide training. The training to be required is currently recommended. Before the regulation becomes effective, many LDSS staff will have already completed this training.

LDSS are currently required to make in-service training available to foster and adoptive families and ten hours of in-service training annually is recommended. CRAFFT coordinators provide in-service training on a regional basis for families to assist those LDSS that do not have their own trainers and to ensure that local training is available to families throughout the state. It is anticipated that CRAFFT in-service events will be better attended after the regulation goes into effect, but it will not be necessary to significantly expand either the CRAFFT program or the provision of foster and adoptive parent in-service trainings offered by the LDSS. The requirement that foster and adoptive families complete in-service training annually will require that LDSS staff track training hours and monitor foster and adoptive parent compliance, which may pose somewhat of a disadvantage to those LDSS not already doing so.

The regulatory action poses no disadvantage to the public or the Commonwealth; proposed changes will benefit foster and adoptive families, LDSS staff and other child welfare staff, and children in foster care by ensuring that foster children are placed in safe and appropriate homes.

Requirements more restrictive than federal

Please identify and describe any requirement of the proposal which is more restrictive than applicable federal requirements. Include a rationale for the need for the more restrictive requirements. If there are no applicable federal requirements or no requirements that exceed applicable federal requirements, include a statement to that effect.

There are no requirements more restrictive than federal requirements.

Localities particularly affected

Please identify any locality particularly affected by the proposed regulation. Locality particularly affected means any locality which bears any identified disproportionate material impact which would not be experienced by other localities.

No locality is particularly affected.

Family impact

Please assess the impact of this 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.

This action will not erode the authority and rights of parents in the education, nurturing and supervision of children. It will not discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse or one's children and/or elderly parents. This action will not erode the marital commitment. There is no relationship between this action and disposable family income.

Changes made since the proposed stage

*Please list all changes that made to the text of the proposed regulation and the rationale for the changes; explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation. *Please put an asterisk next to any substantive changes.*

N/A

Public comment

Please summarize all comments received during the public comment period following the publication of the proposed stage, and provide the agency response. If no comment was received, please so indicate. Please distinguish between comments received on Town Hall versus those made in a public hearing or submitted directly to the agency or board.

Commenter	Comment	Agency response
Susan Taylor	<p>Review current language of certain definitions.</p> <p>Reconsider striking of the word “resource family.”</p> <p>Provide clarification that addresses that there is no option for providers to adopt only.</p> <p>Provide additional definition to the term “Corporal Punishment.”</p>	<p>VDSS reviewed and determined that current definitions were appropriate and require no additional clarity.</p> <p>The Code of Virginia does not address “resource families.” Therefore, this change is necessary to be consistent with Code.</p> <p>VDSS supports the current language used in the proposed guidance and believes it provides sufficient clarity that some families may only want to accept pre-adoptive placements.</p> <p>This definition is consistent with Code.</p>
Susan Taylor	<p>Clarify the term “assessment.”</p> <p>Change the interview requirements to two in-home visits.</p> <p>Consider adding trauma-informed language, addressing attitudes of applicants as it pertains to permanency and removing the word “love.”</p> <p>Provide clarity to “dually approval.”</p> <p>Specify who should receive MFA training.</p> <p>Review the usage of the terms gender vs sex.</p> <p>Remove the word “orientation.”</p>	<p>Current language provides sufficient clarity to this term.</p> <p>The current requirement for one in-home visit is a minimum and does not prevent a LDSS from conducting additional interviews in the home.</p> <p>These considerations are not needed to assess an applicant’s ability to meet the requirements to become a foster parent.</p> <p>Additional clarity for “dually approved” is found in guidance.</p> <p>Language used addresses all child welfare workers regardless of their title or role.</p> <p>The language appropriately addresses the considerations that should be used to determine the types of placements in the home.</p> <p>Removal of the term is not necessary, as agencies are not required to complete a formal orientation. The first training class can be credited as orientation.</p>
Susan Taylor	<p>Suggestions provided to update/add core competencies.</p>	<p>Many of the core competencies are currently addressed in VDSS-approved training</p>

	<p>Do not distinguish training requirements for respite only providers and fully- approved providers.</p> <p>Clarify “working phone” and include having operable CO2 detector.</p> <p>Clarify TB assessment and screening.</p>	<p>curriculum; other training suggestions can be addressed during in-service trainings.</p> <p>This requirement does not prohibit LDSS from providing respite-only providers the same training as fully approved providers.</p> <p>Additional clarification or requirements are not necessary in determining the safety of the home.</p> <p>Language provided is clear and does not require additional clarity.</p>
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All changes made in this regulatory action

Please list all changes that are being proposed and the consequences of the proposed changes. Describe new provisions and/or all changes to existing sections. Explain the new requirements and what they mean rather than merely quoting the proposed text of the regulation

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale
Title		Current title is “Resource, Foster and Adoptive Home Approval Standards.”	<p>Changes title to “Foster and Adoptive Home Approval Standards for Local Departments of Social Services” to clarify that LDSS approve foster and adoptive homes.</p> <p>Throughout the regulation, the term “home study” has been removed and replaced with the term “mutual family assessment.”</p>
			Throughout the regulation, the term “resource family” has been removed and other adjustments to language have been made to ensure consistency with Code definitions of foster and adoptive parents.
10	N/A		Adds definitions for “foster care placement” and “kinship foster parent.” Definition of “background checks” amended to be consistent with 22VAC40-131. Clarifies that dual approval means that a home is approved to both foster and adopt. Clarifies that “provider” means an approved foster or adoptive, or kinship foster family or an

			<p>individual approved to provide respite services. Clarifies that respite services shall not exceed 14 consecutive days. Definition of “fully approved,” “resource parent,” and “respite parent” deleted to improve clarity and increase consistency with Code. The definition of “caretaker” is amended to be consistent with changes to CPS regulations and guidance.</p>
20	N/A	<p>Variance provision applies to all providers</p> <p>Current section uses the term “variance”</p> <p>Standards apply until final order of adoption is entered.</p> <p>Approved respite care providers cannot serve as foster or adoptive parents without completing all requirements for approval as a foster or adoptive parent.</p> <p>The applicant must indicate their understanding of the confidentiality of the information related to the child</p>	<p>Section 20 of subsection B adds the term “relative provider,” which limits the use of waivers to relatives to be consistent with state and federal laws.</p> <p>The term “variance” has been replaced with the term “waiver” to be consistent with state and federal laws.</p> <p>Clarifies that if the provider wishes to continue to be an approved foster care provider for other children, the standards continue to apply.</p> <p>Exceptions to the standards for respite care providers are now addressed in section 65 of the regulation.</p> <p>The applicant must sign an agreement indicating their understanding of the confidential nature of information related to the child placed with them and their responsibility to maintain that confidentiality and to verify that it was explained to them.</p>
30	N/A	<p>Tuberculosis screening required.</p> <p>Applicants must have a physical within 12 months of being approved as a resource parent/family.</p>	<p>Changes terminology to be consistent with Department of Health terminology regarding TB assessment.</p> <p>Changes time period to 13 months to avoid issues with health insurance declining to pay for physicals more frequently than once in a 12-month period.</p> <p>Moves from section 80 (continued</p>

			approval) the requirement that applicants have automobile liability insurance and that any vehicle used to transport foster care children has a valid registration and inspection sticker to this section of the regulation.
40	N/A	LDSS must conduct a minimum of three face-to-face interviews with applicants.	<p>Clarifies that the face-to-face interviews must take place on three separate days.</p> <p>Clarifies that marriage and divorce verifications must be provided as part of the mutual family assessment process.</p> <p>Adds that LDSS staff completing mutual family assessments must receive appropriate training to do so. This includes knowledge of policy and skills for developing a mutual family assessments and approving a foster or adoptive home.</p>
50	N/A	The home study must be amended to reflect significant changes	<p>Adds language requiring providers to report significant changes in their circumstances.</p> <p>Adds language regarding the certificate of approval to increase consistency with LCPA home approval regulation.</p> <p>Adds documentation verifying that background checks were received and the date received must be contained in the file.</p>
60	N/A	The LDSS is required to provide in-service training to foster and adoptive family providers	<p>Adds the requirement that foster and adoptive family providers be trained on mandated child abuse and neglect reporting consistent with changes to Code which went into effect on July 1, 2012.</p> <p>Adds language specifying that each foster and adoptive parent shall complete in-service training.</p>
80	N/A	The provider shall respond to mental health or medical needs of the child.	<p>The provider shall respond to mental health and medical needs of the child.</p> <p>Adds language to ensure that LDSS verify that the requirements for approval are still being met by the provider at the</p>

		The provider shall have a valid driver's license and the vehicle used to transport the child shall have a valid registration sticker.	time of reapproval. This was moved to section 30.
90	N/A	Current section uses the term "variance."	The term "variance" has been replaced with the term "waiver" to be consistent with state and federal laws.
100	N/A	Tuberculosis screening required at re-approval.	Changes terminology to be consistent with Department of Health terminology regarding TB assessment.