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Final Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) Chapter citation(s)	22VAC40-151
VAC Chapter title(s)	Standards for Licensed Children's Residential Facilities
Action title	Amend Standards for Children's Residential Facilities
Date this document prepared	August 17, 2026

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19, the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

Brief Summary

Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.

The *Standards for Licensed Children's Residential Facilities*, 22VAC40-151, establish the requirements used by stakeholders and the Department of Social Services to evaluate the safety, well-being, and stability of care provided to children and youth while placed in licensed children's residential facilities.

This regulatory action brings the regulation into alignment with federal law, including *Preventing Sex Trafficking and Strengthening Families Act of 2014* and the *Family First Prevention Services Act of 2018*. In addition, the amendments align with state requirements, remove and add definitions, improve language clarity, and make technical edits.

Acronyms and Definitions

Define all acronyms used in this form, and any technical terms that are not also defined in the "Definitions" section of the regulation.

DSS—Department of Social Services
CRF—Children's Residential Facilities
IEP—Individualized Education Program

Statement of Final Agency Action

Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) that the agency has "adopted final amendments" to the regulation; 3) the name of the agency taking the action; and 4) the title of the regulation. A suggested statement is, "On [insert date] the Board/Department of [insert name] adopted final amendments to the [title of regulation(s)]."

On June 15, 2026, the State Board of Social Services adopted final amendments to the *Standards of Licensed Children's Residential Facilities*, 22VAC40-151.

Mandate and Impetus

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding the mandate for this regulatory change, and any other impetus that specifically prompted its initiation. If there are no changes to previously reported information, include a specific statement to that effect.

This regulatory action updates the *Standards for Licensed Children's Residential Facilities*, 22VAC40-151, to ensure consistency with applicable federal and state law. The mandate for several elements of this regulatory action derives from the *Preventing Sex Trafficking and Strengthening Families Act of 2014*, the *Family First Prevention Services Act of 2018*, and Chapters 282 and 688 of the 2019 Acts of Assembly. The amendments align the regulation with these statutory requirements and include revisions to definitions, clarification of existing language, and technical corrections necessary to improve regulatory clarity.

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia and Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

The State Board of Social Services has the legal authority to adopt regulation and requirements for CRF in accordance with §§ 63.2-217, 63.2-1700, 63.2-1709.2, 63.2-1726, 63.2-1734, 63.2-1736, and 63.2-1737 of the Code of Virginia. The Code mandates the promulgation of regulations governing the activities, services, and facilities required to be licensed, and requires that such regulations be designed to ensure that activities, services, and facilities promote the welfare of children and youth placed in a CRF.

Purpose

Explain the need for the regulatory change, including a description of: (1) the rationale or justification, (2) the specific reasons the regulatory change is essential to protect the health, safety, or welfare of citizens, and (3) the goals of the regulatory change and the problems it is intended to solve.

The regulatory change is necessary to ensure that *the Standards for Licensed Children's Residential Facilities*, 22VAC40-151, remain consistent with current federal and state statutory requirements.

This action is essential to protect the health, safety, and welfare of children and youth placed in CRF. Aligning the regulation with federal and state law strengthens oversight, enhances protection for vulnerable populations, and ensures that facilities operate under requirements designed to prevent harm, promote stability, and support treatment and services. These amendments help ensure that children and youth receive care in settings that are safe, trauma-informed, and responsive to their individual needs.

The goals of the regulatory change are to: (i) revise regulations to ensure compliance with state and federal statutory requirements; (ii) improve clarity and consistency within the regulatory framework, and (iii) support implementation that reflects current state and federal guidelines and practices in CRF. The State Board of Social Services has concluded that revising the existing regulation offers the most efficient and effective approach to promoting clarity, ensuring consistency, and strengthening protections for children and youth.

Substance

Briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both. A more detailed discussion is provided in the "Detail of Changes" section below.

This regulatory action incorporates the technical information, language, and processes necessary to ensure consistency with state and federal law. Substantive amendments include establishing standards and training requirements for normalcy and reasonable and prudent parenting for children; adding training requirements on topics such as shaken baby syndrome; adding requirements to review and update behavior support plans; requiring documentation of an inventory of each resident's clothing and personal belongings at admission and discharge; clarifying requirements related to fire inspections; updating and clarifying responsibilities to ensure the educational needs of children in foster care are met; clarifying that the term "child" applies to any person under 18 years of age and the term "resident" applies to any child or young adult; adding qualified residential treatment program requirements; and adding, revising, and deleting definitions, language, and technical provisions necessary to clarify existing requirements.

Issues

Identify the issues associated with the regulatory change, 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, include a specific statement to that effect.

The primary advantages of this regulatory action, particularly for children and youth placed in CRF, include strengthening protections for their safety and well-being through alignment with state and federal law. The amendments also incorporate the qualified residential treatment program requirements in accordance with § 63.2-2-906.1 of the Code of Virginia and 42 U.S.C. § 675, ensuring that residential care settings meet current statutory and programmatic expectations.

This regulatory change poses no disadvantages to the public, the agency, or the Commonwealth. The amendments enhance protections for children and youth, improve regulatory clarity and ensure compliance with state and federal law.

Requirements More Restrictive than Federal

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any requirement of the regulatory change which is more restrictive than applicable federal requirements. If there are no changes to previously reported information, include a specific statement to that effect.

There are no requirements in this regulatory action that exceed applicable federal requirements.

Agencies, Localities, and Other Entities Particularly Affected

List all changes to the information reported on the Agency Background Document submitted for the previous stage regarding any other state agencies, localities, or other entities that are particularly affected by the regulatory change. If there are no changes to previously reported information, include a specific statement to that effect.

Other State Agencies Particularly Affected

Other state agencies are not particularly affected by this regulatory change.

Localities Particularly Affected

Localities are not particularly affected by this regulatory change.

Other Entities Particularly Affected

Other entities are not particularly affected by this regulatory change.

Public Comment

Summarize all comments received during the public comment period following the publication of the previous stage, and provide the agency's response. Include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. If no comment was received, enter a specific statement to that effect.

Commenter	Comment	Agency response
Veronica Dowdy via Town Hall	The commenter noted that most school-age children in residential programs likely qualify for IEPs and require IDEA aligned attendance documentation. The individual emphasized that students with IEPs often experience school avoidance or refusal and are legally entitled to support and services rather than truancy actions. The commenter	The <i>Standards for Licensed Children's Residential</i> , 22VAC40-151, does not address the educational rights of residential students who qualify for special education services under the Individuals with Disabilities Education Act (IDEA). This regulation governs safety and program operations for children residing in licensed children's residential facilities, not IEP

	stressed the need for these measures to be included in policy, fully implemented, and routinely audited so that vulnerable students receive required support and are not subjected to unnecessary harm.	development, IEP implementation, or truancy procedures. Educational requirements for students with IEPs are regulated by the Virginia Department of Education, specifically 8VAC20-81.
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Detail of Changes Made Since the Previous Stage

*List all changes made to the text since the previous stage was published in the Virginia Register of Regulations and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.*

Current chapter-section number	New chapter-section number, if applicable	New requirement from previous stage	Updated new requirement since previous stage	Change, intent, rationale, and likely impact of updated requirements
10		N/A	N/A	No new requirements were added. The definition of “case record” was revised for clarification, and the definition for “fictive kin” was revised to align with § 63.2-100 of the Code of Virginia.
250		N/A	N/A	No new requirements were added. The term “begin date” was replaced with “date of employment” to ensure consistent interpretation and compliance. * Language was restored to its original form by removing the CPR in-person demonstration requirement, recognizing that modern online training methods reduce logistical barriers without diminishing learner competency. The language was revised to reinstate “standard precautions,” providing a broader and more

				comprehensive infection prevention framework.
710		N/A	N/A	No new requirements were added. The definition for “therapy” was removed to clarify that DSS does not regulate or define clinical treatment modalities.
740		N/A	N/A	No new requirements were added. The language was revised to reinstate “standard precautions,” providing a broader and more comprehensive infection prevention framework.
750		Revised emergency medication requirement	Revised to specify that all medications must be locked, with noted exceptions, and added a requirement that any medication stored unlocked must be properly labeled.	* Clarified that emergency medication stored unlocked must be properly labeled to reinforce safe storage practices and reduce the risk of medication errors.
760		N/A	N/A	No new requirements were added. The recommendation to consult the U.S. Department of Agriculture Dietary Guidelines for Americans for examples of meeting minimum nutritional standards was removed.
770		N/A	N/A	No new requirements were added. The term “lead regulatory agency” was replaced with “department” to clarify that the department is the regulatory authority for licensed children’s residential facilities.
860		N/A	N/A	No new requirements were added. The term “legal guardian or placing agency” replaced “child” to clarify the responsibility of educational records, as this change was a technical change. The requirement for the new school to immediately contact the school of origin

				to obtain relevant academic and other records was removed because it is unnecessary to address school enrollment responsibilities in this regulatory action.
1030		N/A	N/A	No new requirements were added. The term “by the assessment of the child” was removed to eliminate redundant working and improve clarity. Language was added to clarify that nursing staff and other licensed clinical staff are required to meet the additional staffing requirements specified in this regulation.
1040		N/A	N/A	No new requirements were added. The term “resident” was replaced with “child” to clarify who participates in the qualified residential treatment program.

Detail of All Changes Proposed in this Regulatory Action

List all changes proposed in this action and the rationale for the changes. For example, describe the intent of the language and the expected impact. Describe the difference between existing requirement(s) and/or agency practice(s) and what is being proposed in this regulatory change. Explain the new requirements and what they mean rather than merely quoting the text of the regulation. * Put an asterisk next to any substantive changes.

Current chapter-section number	New chapter-section number, if applicable	Current requirements in VAC	Change, intent, rationale, and likely impact of updated requirements
Throughout this chapter	N/A	The term “standards” was used. The terms “child care supervisor” and “child care staff” were used.	Replaced the term “standards” with “regulations” for clarification. Changed “child care supervisor” to “residential care supervisor” and “child care staff” to “residential care staff” to clarify that the children’s residential facilities serve both children and young adults.

		The term “child” was used.	Replaced “child” with “resident” or “individual” when referring to children and young adults to ensure terminology accurately reflects the population served.
10		This section defines terms used throughout the regulation.	Removed the following definitions because the word or term was not used in this regulation: • “Allegation” • “Behavior support assessment” • “Complaint” • “Corrective action plan” • “Good character and reputation” Removed “license” and “therapy” definitions because the definition is not required for this regulation. Moved the following definitions to the section where the word was only used one time in the regulation: • “Aversive stimuli” to 22VAC40-151-820 • “Body cavity search” to 22VAC40-151-790 • “Corporal punishment” to 22VAC40-151-820 • “Mechanical restraint” to 22VAC40-151-830 • “Pat down” to 22VAC40-151-790 • “Pharmacological restraint” to 22VAC40-151-830 • “Rules of conduct” to 22VAC40-151-840 • “Sanitizing agent” to 22VAC40-151-540 • “Seclusion” to 22VAC40-151-850 • “Severe weather” to 22VAC40-151-990 • “Strip search” to 22VAC40-151-790 • “Target population” to 22VAC40-151-120 • “Temporary contract worker” to 22VAC40-151-320 Revised the following definitions to correspond with the definition in the § 63.2-100 of the Code of Virginia: • “Child-placing agency” • “Children’s residential facility” • “Independent living services” Revised the following definitions:

		• “Allowable variance” to correspond with the definition in 22VAC40-80-10. • “Applicable state regulation” to remove the terms “modules, standards, and other” for clarification. • “Behavior support” to remove “child” and replace with “resident.” • “Child” to clarify that staff to child ratios apply to all children, including children who are not residents of the facility, and to align with how the term is referenced in qualified residential treatment programs. • “Contraband” to clarify that items are prohibited by law or rules of the facility. • “Human research” to correspond with the definition in § 32.1-162.16. • “Living unit” to provide clarification of how the term is used in this regulation. • “Personal health information” was changed to “health information” to correspond with the term used in 22VAC40-151-190. • “Self-admission” to cite the Code reference § 63.2-1817. • “Standard” to provide clarification of how the term is used in this regulation. • “Substantial compliance” to replace the term ‘standards’ with ‘regulations’ for clarification. • “Wilderness program” was changed to “wilderness campsite program” to correspond with the term used in 22VAC40-151-1020. Added the following definitions: • “Fictive kin” to provide clarification for the terms used in a new section, 22VAC40-151-13030, Qualified residential treatment program. • Foster home” to provide clarification for the term used in regulation. • “Normalcy” to provide clarification for the term used the regulation. • “Qualified individual” to provide clarification for the terms used in a new section, 22VAC40-151-1030, for qualified residential treatment program.
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			• “Qualified residential treatment program” to provide clarification for the terms used in a new section, 22VAC40-151-1030, related to qualified residential treatment program. • “Reasonable and prudent parent standard” to provide clarification for the terms used in regulation. • “Trauma” to clarify the term use in 22VAC40-151-250, Staff development and in 22VAC40-151-720, Structured program of care. • “Trauma-informed” to clarify the term used in 22VAC40-151-1030, Qualified residential treatment program.
30		This section addresses facility inspections.	Revised with term “laws and regulations” and removed “standards” for clarification. Updated the name to “Office of Children’s Services.” Removed “or certificate” because certificates are no longer issued for this program.
240		This section addresses personnel records.	Added the Code citation § 63.2-1726 to reference the background check requirements for employees, students and interns, volunteers, and contractors, clarifying the legal authority for these requirements.
250		This section addresses staff development.	* Revised to clarify that all employees, both current and transferring, must receive orientation. * Added that all staff must be trained on normalcy and reasonable and prudent parent standard, pursuant to the Preventing Sex Trafficking and Strengthening Families Act of 2014, as well as on trauma and trauma-informed interventions, pursuant to the Family First Prevention Services Act. * Added shaken baby syndrome training requirement pursuant to § 63.2-1737 D. of the Code of Virginia. Revised to clarify that annual retraining applies to all staff who may have interactions with residents,

			including child care staff.
280		This section addresses responsibilities, qualifications and required documents for chief administrative officer applicants.	Replaced “applicant” with “candidate” for clarification. * Added a timeframe to clarify that documentation of prior relevant experience must be submitted before the date of hire.
290		This section addresses qualifications and required documents for program director applicants.	Removed “certified” to clarify that CRFs are licensed. Replaced “applicant” with “candidate” for clarification. * Added a timeframe to clarify that documentation of prior relevant experience must be submitted before the date of hire.
360		This section addresses buildings, inspections and building plans.	* Revised to clarify that the fire official’s report must be provided at the time of the initial application. * Revised to clarify, after the initial application, a fire official’s report must be completed annually.
420		This section addresses sleeping areas.	* Added that an adolescent parent and their child may share a bedroom without other residents to ensure privacy for both the parent and child.
430		This section addresses smoking prohibition.	* Added that electronic smoking devices are prohibited in living areas and areas where residents participate in programs to protect residents and support a healthier residential environment.
450		This section addresses living room and indoor recreational space.	Removed “certified” to clarify that CRFs are licensed.
570		This section addresses admission procedures.	* Added the facility shall document the resident’s clothing and personal belongings in the resident’s record at the time of admission to prevent loss or disputes during the resident’s stay at the CRF.
620		This section addresses admission application.	* Added that the application for admission must include the prospective resident’s trauma history and symptoms to align with the requirements of the Family First Prevention Services Act.
680		This section addresses discharge from the CRF.	* Added the requirement that a list of the resident’s clothing and personal belongings at the time of discharge be documented in resident’s record and provided to the

			legal guardian to prevent loss or disputes over personal items.
720		This section addresses structured program of care.	* Added that the program shall identify the child's trauma experiences and their impact on behavior to support tailored and effective treatment planning. * Added that the provider shall implement policies and procedures to support normalcy and the reasonable and prudent parent standard as defined in 42 U.S.C. § 675 (10) (A). * Added that at least one trained staff on-site who is authorized to apply the reasonable and prudent parent standard pursuant to 42 USC § 671 (a)(10)(B) and who consults with the child- placing agency or legal guardian for information needed to apply the standard, in order to comply with the Preventing Sex Trafficking and Strengthening Families Act. * Added that the recorded health and dental complaints must be addressed in accordance with 22VAC40-151-730 and 22VAC40-151-740 to support the overall health and safety of residents.
740		This section addresses medical examinations and treatment	* Added that ordered medical procedures must be provided according to physician's instructions and documented in the resident's record to support continuity of care.
750		This section addresses medication.	* Added that emergency medication may be stored in an unlocked, secured location when it is properly labeled with a physician's order indicating that the medication must be immediately accessible in an emergency and the facility has a plan to ensure resident safety. * Added that the medical administration record shall include the resident's name to promote resident safety and reduce the risk of medication errors. * Clarified that medication refusals shall be documented on the medical administration record and include action taken from staff.

760		This section addresses nutrition.	Removed the reference to the U.S. Department of Agriculture Dietary Guidelines for Americans may be used for examples for meeting minimum nutritional examples to help ensure that residents receive balanced and proper nutrition. This reference is not needed.
790		This section addresses searches.	* Added that witnesses for pat downs must be the same gender as the resident being searched to strengthen resident safety and dignity during the pat down.
800		This section addresses behavior support.	* Added that the other applicable individuals are familiar with the resident shall be consulted when developing the behavior support plan to ensure it is comprehensive and tailored to the resident's needs. * Added that behavior support plans shall be reviewed and updated each time the service plan and quarterly reports are updated to ensure accuracy and relevance to the resident's current needs.
860		This section addresses education.	* Added that residents in foster care shall be allowed to attend the school in which they were enrolled prior to admission, with a joint determination meeting in accordance with § 22.1-3.4 of the Code of Virginia to provide educational stability. Clarified that if the resident is not in foster care and is of compulsory school attendance age, the resident shall be enrolled in school within five days to ensure timely enrollment.
880		This section addresses recreation.	* Added that one on-site employee be designated to apply the reasonable and prudent parent standard when making decisions about residents' participation in recreational activities, in accordance with the Preventing Sex Trafficking and Strengthening Families Act, to align with federal requirements and strengthen safeguards for residents.
970		This section addresses suspected child abuse or neglect.	Added the Code of Virginia citation § 63.2-1509 for the requirements related to reporting cases of child abuse and neglect to support consistent reporting practices to

			protect the safety and well-being of residents.
	1030	*This new section addresses requirements for a qualified residential treatment program.	The revisions ensure compliance with § 63.2-906.1 of the Code of Virginia and the Family First Prevention Services Act (FFPSA), both of which establish specific standards for qualified residential treatment programs. * Added that a qualified residential treatment program must have a trauma-informed treatment model that addresses the child's need and can implement the identified treatment. * Added a qualified residential treatment program must have licensed nursing staff on-site and available 24 hours a day, 7 days a week, to provide care within their scope of practice. * Added the qualified residential treatment program must facilitate family participation in the treatment program when it is in the child's best interest. * Added the qualified residential treatment program must facilitate contact, document how the contact with the child's family members and fictive kin, including maintaining current contact information. * Added the qualified residential treatment program must provide discharge planning and family-based aftercare support for six months after discharge. * Added the qualified residential treatment program must be accredited by an approved not-for-profit accrediting organization.
	1040	*This new section addresses requirements for foster children placed in qualified residential treatment programs.	The revisions ensure compliance with § 63.2-906.1 of the Code of Virginia and the FFPSA, both of which establish specific standards for qualified residential treatment programs.

			* Added the qualified residential treatment program shall coordinate with child's placing agency, legal guardian, biological family members, fictive kin, and other appropriate professionals. * Added documentation required for placement in a qualified residential treatment program must include the assessment determination and written approval or disapproval of the placement.
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