



COMMONWEALTH of VIRGINIA

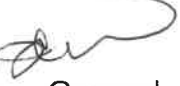
Office of the Attorney General

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MEMORANDUM

TO: KARIN CLARK
Virginia Department of Social Services

FROM: Jennifer C. Williamson 
Senior Assistant Attorney General

DATE: November 14, 2024

SUBJECT: Fast-Track Review of 22 VAC 40-730
Investigation of Child Abuse and Neglect in Out of Family Complaints

I am in receipt of and have reviewed the attached regulation being amended as a result of a periodic review and to simplify and clarify the regulation in compliance with Executive Order 19. You have asked the Office of the Attorney General to review this action and determine if the State Board has the statutory authority to promulgate the proposed regulation and if the proposed regulation comports with applicable state law.

Pursuant to Virginia Code § 63.2-217, the State Board is required to promulgate regulations as may be necessary or desirable to carry out the purposes of Title 63.2 of the Virginia Code. It is my opinion the State Board has the authority to promulgate this fast-track regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act ("APA") and Executive Order 19, including the Procedures of the Office of Regulatory Management, and that in so doing the State Board does not exceed that authority. Furthermore, the proposed regulation comports with applicable state law.

If you have any questions, please feel free to call me at (804) 225-3197.

Attachment

Project 8106 - Fast-Track

Department of Social Services

Amend Out of Family Complaints to Reduce Requirements

22VAC40-730-20. General.

~~For the purpose of this chapter, valid complaints of child abuse or neglect involving complaints in a facility or foster home shall be investigated by qualified staff employed by local departments of social services.~~

~~Staff shall be determined to be qualified based on completion of an out of family training course as approved by the department.~~

This regulation is limited in scope to the topics contained in this chapter. All issues regarding investigations, findings, and appeals are found in Child Protective Services, 22VAC40-705, and as such are cross referenced and incorporated into and apply to out of family cases to the extent that they are not inconsistent with this regulation.

22VAC40-730-40. Involvement of regulatory agencies.

The authority of the local department to investigate valid complaints of alleged child abuse or neglect in facilities or foster homes overlaps with the authority of the public agencies that have regulatory responsibilities for these facilities to investigate alleged violations of standards.

1. For valid complaints, the local department shall contact the appropriate regulatory authority and share the complaint information. The regulatory authority will appoint a staff person to participate in the investigation to determine if there are regulatory concerns.

~~2. The assigned child protective services (CPS) worker and the appointed regulatory staff person will discuss their preliminary joint investigation plan.~~

a. The CPS worker and the regulatory staff person shall review their respective needs for information and plan the investigation based on when these needs coincide and can be met with joint interviews or with information sharing.

b. The investigation plan must keep in focus the requirements to be met by the CPS worker and regulatory authority as well as the impact the investigation will have on the facility's staff, the victim child, and the other children at the facility.

22VAC40-730-70. Contact with the facility administrator.

~~A. The child protective services (CPS) worker shall initiate contact with the facility administrator or designee at the onset of the investigation.~~

B. The CPS worker shall inform the facility administrator or designee of the details of the valid complaint. When the administrator or designee chooses to participate in the joint investigation, he will be invited to participate in developing the plan for investigation, including decisions about who is to be present in interviews. If the administrator or designee is the alleged abuser or neglecter, this contact should be initiated with the individual's superior, which may be the board of directors, or if there is no superior, the CPS worker may use discretion in sharing information with the administrator so long as such disclosure is consistent with and does not conflict with law or regulation.

C. Arrangements are to be made for:

1. Necessary interviews;
2. Observations including the physical plant; and
3. Access to information, including review of pertinent policies and procedures.

D. The CPS worker shall keep the facility administrator or designee apprised of the progress of the investigation. In a joint investigation with a regulatory staff person, either party may fulfill this requirement.

22VAC40-730-130. Requirements.

A. In order to be determined qualified to conduct investigations in out of family settings, local child protective services (CPS) workers shall meet minimum education standards established by the department including completion of an out of family training course as approved by the department.

~~B. The department and each local department shall maintain a roster of personnel determined qualified to conduct these out of family investigations.~~