



Proposed Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40 -211
Regulation title	Resource, Foster and Adoptive Family Home Approval Standards
Action title	Establish Resource, Foster and Adoptive Family Home Standards for Local Departments of Social Services
Date this document prepared	February 20, 2008

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Brief summary

In a short paragraph, please summarize all substantive changes that are being proposed in this regulatory action.

The new regulation for resource, foster and adoptive family home providers approved by local departments of social services (local departments) will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes. Regulations addressing approval of providers by local departments were contained in 22 VAC 40-770 which was repealed in 2007. This action is necessary to provide local departments with guidance in the approval of provider homes. In addition, the new regulations will create consistency between providers approved by local departments of social services and licensed child placing agencies. This consistency was an action step of the Performance Improvement Plan developed in response to the federal Child and Family Services Review and is required by federal regulations.

Major components of the regulation include: making all definitions and requirements to be consistent with other social services regulations and applicable approval requirements that fall under the purview of other State agencies; mandating training for resource, foster and adoptive home providers; requiring a narrative home study report; creating one set of standards for the approval of all types of family home providers (i.e.; resource, foster and adoptive) to streamline the process of approval; requiring proof of provider approval to be maintained in the child's file; ensuring safety through standards for the home of the provider and requirements for criminal background checks.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., the agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

The state legal authority to promulgate the new Resource, Foster and Adoptive Family Home Approval Standards regulation, can be found in §§ 63.2-217, 63.2-319, 63.2-901.1 of the Code of Virginia.

Purpose

Please explain the need for the new or amended regulation by (1) detailing the specific reasons why this regulatory action is essential to protect the health, safety, or welfare of citizens, and (2) discussing the goals of the proposal, the environmental benefits, and the problems the proposal is intended to solve.

The purpose of the proposed action is to adopt a new regulation specific to the approval requirements for resource, foster and adoptive family homes providers approved by local departments. The new regulation will fill the void left by the 2007 repeal of 22 VAC 40-770. The new regulation will ensure compliance with changes to federal and state laws and regulations regarding resource, foster and adoptive family homes. Adherence to these standards are essential to protect the health, safety and welfare of families and children who are part of our foster care system. In addition, the new regulations will create consistency between providers approved by local departments and licensed child placing agencies. This consistency was an action step of the Performance Improvement Plan developed in response to the federal Child and Family Services Review and is required by federal regulations.

Substance

Please briefly identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. (More detail about these changes is requested in the "Detail of changes" section.)

Substantive provisions include definitions which are consistent with definitions contained in the Code of Virginia and other social services regulations; requiring a Department of Motor Vehicles check on applicants; specifying barrier crimes that would prohibit the provider from being approved; mandating training requirements for providers; specifying acceptable child sleeping arrangements, the capacity in each home; medical requirements for providers; gun and ammunition safety in a providers home; home study requirements; applicant grievance procedures; and, fire safety. In addition the regulation establishes requirements for criminal background checks and child protective services central registry searches, and provider reapproval requirements. The regulation establishes consistency between regulations for approval of local departments and private child placing agency resource, foster and adoptive homes.

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 the regulatory action poses no disadvantages to the public or the Commonwealth, please so indicate.

The public is expected to benefit from this new regulation, as it strengthens the safety requirements for the providers who care for the vulnerable children placed in the Commonwealth’s foster care system. It also strengthens the authority of the local departments to hear all applicant grievances and make the final decision as to who will be approved as a resource, foster or adoptive home provider. Finally, these new regulations will benefit the local departments and individuals providing care for children in foster care by ensuring that the regulations are consistent with state and federal law and other related social services regulations.

Economic impact

Please identify the anticipated economic impact of the proposed regulation.

<p>Projected cost to the state to implement and enforce the proposed regulation, including (a) fund source / fund detail, and (b) a delineation of one-time versus on-going expenditures</p>	<p>\$511,120 which is currently budgeted (and has been budgeted for the last five years) for the Community Resource, Adoptive, and Foster Family Training Program (CRAFFT). These funds are federal and state funds under program code 46901, project code 00000/70716.</p> <p>A \$4,000 annual licensing fee for use of the Parent Resource for Information Development and Education (PRIDE) foster parent training curriculum is also required (These funds are federal funds under program code 46901, project code 00000).</p> <p>The Virginia Department of Social Services (VDSS) also provides training opportunities for foster and adoptive parents through the Virginia Foster, Adoptive and Kinship Care Association (FACES). These training opportunities are funded by FACES which is in part funded by VDSS through federal funds under program code 46901, project code 00000. Localities may have to fund some costs for their foster parents to attend some of these training opportunities if they choose to use them (e.g., foster parent travel and registration fees for the annual conference)</p>
<p>Projected cost of the regulation on localities</p>	<p>There is no projected cost for local departments unless they choose to provide their foster/adoptive family training without using state resources</p>

	<p>(CRAFFT) or the state-provided PRIDE curriculum. Local departments that choose not to use these resources can use local funds to draw down federal funds to support alternative training curricula.</p> <p>Based on last year's reports, local departments paid a total of \$15,467.00 to send foster and adoptive parents to the annual Foster and Adoptive Conference. These are individuals who did not apply for scholarships or for whom the scholarship funding was no longer available.</p>
<p>Description of the individuals, businesses or other entities likely to be affected by the regulation</p>	<p>Local departments</p>
<p>Agency's best estimate of the number of such entities that will be affected. Please include an estimate of the number of small businesses affected. Small business means a business entity, including its affiliates, that (i) is independently owned and operated and (ii) employs fewer than 500 full-time employees or has gross annual sales of less than \$6 million.</p>	<p>120 local departments</p>
<p>All projected costs of the regulation for affected individuals, businesses, or other entities. Please be specific. Be sure to include the projected reporting, recordkeeping, and other administrative costs required for compliance by small businesses.</p>	<p>Zero, unless the local department chooses to use local resources</p>

Alternatives

Please describe any viable alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action. Also, include discussion of less intrusive or less costly alternatives for small businesses, as defined in §2.2-4007.1 of the Code of Virginia, of achieving the purpose of the regulation.

There are no viable alternatives to creating a new regulation. The old Standards and Regulations for Agency Approved Providers (22 VAC-770) was repealed in 2007. That regulation had included generic provisions that apply to all providers (child care, foster family homes, adoptive family homes and adult services) and such a format is no longer effective. Adult services has developed a regulation specific to that program. Local departments do not currently have a regulation on how to approve a foster or adoptive family home and are simply following established practice. This new regulation provides needed guidance, will ensure compliance with changes to state and federal laws and creates consistency between public and private agency approval requirements.

Regulatory flexibility analysis

Please describe the agency's analysis of alternative regulatory methods, consistent with health, safety, environmental, and economic welfare, that will accomplish the objectives of applicable law while

minimizing the adverse impact on small business. Alternative regulatory methods include, at a minimum: 1) the establishment of less stringent compliance or reporting requirements; 2) the establishment of less stringent schedules or deadlines for compliance or reporting requirements; 3) the consolidation or simplification of compliance or reporting requirements; 4) the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and 5) the exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

This regulation does not impact small businesses; however, it is intended to help children find safe, stable and permanent homes which ultimately benefits society as a whole.

Public comment

Please summarize all comments received during public comment period following the publication of the NOIRA, and provide the agency response.

Commenter	Comment	Agency response
Catherine S. Hargan, MSW	Ms. Hargan’s comments emphasized the importance of initial and on-going training for foster parents and for ensuring they are included as a “collaborative” partner.	VDSS agrees with Ms. Hargan’s comments. Training for foster parents is included in this regulation.

Family impact

Please assess the impact of the proposed 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 new regulation will allow families who foster or adopt children in foster care to receive better training and support for managing the children placed in their homes. By doing so, children’s placements will become more stable, thus allowing children the safety and security of a family home within which to reside.

Detail of changes

Please detail all changes that are being proposed and the consequences of the proposed changes. Detail all new provisions and/or all changes to existing sections.

If the proposed regulation is intended to replace an emergency regulation, please list separately (1) all changes between the pre-emergency regulation and the proposed regulation, and (2) only changes made since the publication of the emergency regulation.

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change and rationale

This is a new regulation. It does not change current requirements, but may result in changes in guidance and for some local agencies, in practice. The regulation addresses local department of social services' approval of resource, foster and adoptive family homes. The following sections are contained in this regulation:

Section 10: Definitions of terms used in the regulation

Section 20: Approval of provider Homes- This section provides that meeting the standards set out in the regulation will allow individuals to be approved as a resource, foster or adoptive parent, and that they may choose to only provide a single type of service.

Section 30: Background checks and health standards – This section requires federal and state background checks as required by law. It also requires physical examinations and tuberculosis screenings and Division of Motor Vehicle driver record checks.

Section 40: Home study requirements – This section details the information that must be included in the home study, including demographic and financial. It also addresses interviews and references and requires a narrative based on information gathered throughout the process which assesses and documents the applicant's capacity to meet all requirements.

Section 50: Approval period and documentation of approval – This section provides for an approval period of 36 months and details what information is on the approval certificate and what documentation must be maintained.

Section 60: Training – This section requires that local departments ensure pre-service training is provided for resource, foster and adoptive family home providers and that the training address, but not be limited to, the listed core competencies. This section also requires that VDSS provide opportunities for training on an annual basis. The section also requires that local departments explain confidentiality requirements to providers.

Section 70: Standards for the home of the provider – This section address the home of the provider including space, sleeping arrangements, safety considerations, pets and the number of children who may be placed in the home. It requires that the provider have plans for evacuation and relocation of the family in the event of an emergency.

Section 80: Standards of care for continued approval - This section addresses areas which will be considered in the reapproval of the provider in addition to the requirements of the initial homestudy. They include providing care which does not discriminate, the provision of adequate and appropriate food and clothing and valid driver's license and insurance.

Section 90: Allowing a variance – This section provides that the local department may request and receive from the VDSS, a variance on a provider's meeting a standard if it would not jeopardize the safety and proper care of the child or violate federal or state law, or local ordinance.

Section 100: Monitoring and reapproval of providers – This section requires the local department to visit the home of the provider as often as necessary, but at least quarterly. It details what will be considered in the reapproval process.

Section 110: Provider's right to grieve – This section allows the provider to grieve the actions of the local department to the local board on issues related to their application to become a resource, foster and/or adoptive home provider. The regulation provides that decisions on the placement of a specific child are not subject to grievance, that the local board has the final determination on appropriate placement for children. Decisions regarding final adoptive placements are made by the circuit court.