



Virginia  
Regulatory  
Town Hall

## Emergency Regulation Agency Background Document

<b>Agency Name:</b>	State Board of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-293
<b>Regulation Title:</b>	Changing locality groupings
<b>Action Title:</b>	Establish regulation for changing locality groupings
<b>Date:</b>	February 19, 2003

Section 9-6.14:4.1(C)(5) of the Administrative Process Act allows for the adoption of emergency regulations. Please refer to the APA, Executive Order Twenty-Four (98), and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the emergency regulation submission package.

### Emergency Preamble

*Please provide a statement that the emergency regulation is necessary and provide detail of the nature of the emergency. Section 9-6.14:4.1(C)(5) of the Administrative Process Act states that an "emergency situation" means: (i) a situation involving an imminent threat to public health or safety; or (ii) a situation in which Virginia statutory law, the Virginia appropriation act, or federal law requires that a regulation shall be effective in 280 days or less from its enactment, or in which federal regulation requires a regulation to take effect no later than 280 days from its effective date*

*Please include a brief summary of the emergency action. There is no need to state each provision or amendment.*

The emergency regulation is necessary as provided by the 2002 Appropriation Act, Item 353, Paragraph F (Chapter 899, 2002 Acts of Assembly), which specifies that regulations regarding changing Temporary Assistance for Needy Families (TANF) locality groupings be established within 280 days of the effective date of the act. The regulation is not otherwise exempt under the provisions of § 9-6.14:4.1(C)(4) of the Administrative Process Act. This regulation establishes regulations by which local boards of social services may request changes in their locality groupings, which is used to determine the amount of payment for TANF families.

## Basis

*Please identify the state and/or federal source of legal authority to promulgate the emergency regulation. The discussion of this emergency statutory authority should: 1) describe its scope; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. Full citations of legal authority and web site addresses, if available for locating the text of the cited authority, should be provided.*

*Please provide a statement that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with applicable state and/or federal law.*

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Pursuant to §63.2-217 of the Code of Virginia, the State Board of Social Services has authority to promulgate rules and regulations necessary for the operation of all assistance programs. The 2002 Appropriations Act requires the promulgation of regulations concerning changing locality groupings, which are used to determine the amount of payment for TANF families. These regulations will establish rules for changing locality groupings. The Office of the Attorney General has certified that the agency has the statutory authority to promulgate the emergency regulation and that it comports with state and federal law.

## Substance

*Please detail any changes, other than strictly editorial changes, that would be implemented. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Please provide a cross-walk which includes citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes. The statement should set forth the specific reasons the agency has determined that the proposed regulatory action would be essential to protect the health, safety or welfare of Virginians. The statement should also delineate any potential issues that may need to be addressed as a permanent final regulation is developed.*

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This is a new regulation that is being established. Currently, localities are placed in groupings which determine the payment levels for TANF. Procedures to change locality groupings have never been regulated. These regulations provide the rules for these changes, including the data to be provided to the State Board of Social Services, the requirement that funds be available as determined by the Commissioner, and the ability to change data sources being relied upon with the consent of the State Board. Also, recipients of TANF in a locality that switches to a lower locality grouping shall continue to receive TANF assistance at the level established prior to regrouping.

## Alternatives

*Please describe the specific alternatives that were considered and the rationale used by the agency to select the least burdensome or intrusive method to meet the essential purpose of the action.*

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Numerous sources of data for establishing standards of assistance locality groupings were consulted. The fair market rent schedules established by the Department of Housing and Urban Development provide locality specific data that is routinely updated. Furthermore, the primary driver of cost of living differences statewide, are housing costs. Using fair market rent schedules was the best source of data that could be easily obtained and that provided necessary information.