

Unified Regulatory Plan of the Department of Social Services for State Fiscal Year 2023

Prepared on October 3, 2022

Description of Agency & Board

The Department of Social Services supervises the administration of public assistance and service programs by local social services, including various federally reimbursements and programs not federally reimbursed. Pursuant to § 63.2-217 of the Code of Virginia, the State Board of Social Services is authorized to adopt regulations necessary to carry out the purpose of Title 63.2. Welfare (Social Services).

Title of Proposed Regulatory Action or Guidance Document	
Update Human Subject Research Chapter (22 VAC 40-890)	
Brief Overview	
The Virginia Department of Social Services follows the Federal Policy for the Protection of Human Subjects (45 CFR 46 ; also known as the “Common Rule”) to ensure protection of all human subjects participating in research conducted or sponsored by the Department. In addition to updating certain definitions and terms to be congruent with those that appear in other state Code (e.g., § 32.1-162.16), the Department will amend the 22 VAC 40-890-30 and 22 VAC 40-890-80 to be congruent with new changes to the Common Rule. The Revised Common Rule expands the list of types of research <u>posing minimal risk</u> to human subjects that qualify for either an <u>exemption</u> from IRB review or an <u>expedited review</u> in which only the Chair (or one other IRB member) conducts the review. The Common Rule eliminates the need for a continuing review for ongoing research initially approved under an expedited review process.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input checked="" type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Discretionary action <input checked="" type="checkbox"/> Action required by state statute
Deregulatory Component	These changes ensure consistency and clarity in the language and terminology used in the chapter. Furthermore, these changes expedite the review and approval process for more categories of research, thus reducing the administrative burden on human research review committees and researchers.
Expected Date	November 2022

Title of Proposed Regulatory Action or Guidance Document Revisions to Personnel Policies for Local Departments of Social Services (22VAC40-675)	
Brief Overview Anticipated changes will include updated language required by federal statute (EEOC; 42USC §2000-e-2), with no additional regulatory requirements added. In addition, amendments will eliminate a current required procedure from which local government agencies are now exempt (DOL; 41 CFR § 60-1.5) and make technical corrections.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input checked="" type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	The changes will remove one regulatory requirement. The requirements listed under 22VAC40-675-180B, "Equal employment opportunity," can be repealed/removed. According to the Department of Labor, "except for universities and medical facilities, a state or local government agency, instrumentality, or subdivision that has a government contract is exempt from the requirement to develop and maintain a written affirmative action program (41 CFR § 60-1.5)."
Expected Date	December 2022

Title of Proposed Regulatory Action or Guidance Document Establish Year Round Energy Assistance Program & Periodic Review (22VAC40-680)	
Brief Overview The Energy Assistance Program (EAP) regulation, 22VAC40-680, provides the framework for a statewide EAP, including the three components of the EAP, which are fuel, crisis, and cooling. This regulation includes the application periods, eligibility criteria, benefits, and administrative costs for each of the three components. This action includes changes to extend the eligibility period for EAP, add details regarding the assistance provided, and update the information regarding administrative costs for local departments of social services.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	During the periodic review, DSS will review the regulation to determine which, if any, discretionary requirements may be repealed.
Expected Date	To be determined. Proposed regulation to be submitted to the OAG at least sixty days prior to the State Board of Social Services meeting.

Title of Proposed Regulatory Action or Guidance Document Amend Standards for Licensed Child-Placing Agencies (22VAC40-131)	
Brief Overview This regulation provide requirements for the public and DSS to evaluate the safety and stability of care that children and youth receive from licensed child placing agencies. Proposed amendments are intended to bring the regulation into alignment with federal Preventing Sex Trafficking and Strengthening Families Act of 2014 and the Family First Prevention Services Act of 2018. This regulatory action will also align with applicable requirements in Permanency Services-Prevention, Foster Care, Adoption, and Independent Living, 22VAC40-201 and Resource, Foster and Adoptive Family Home Approval Standards, 22VAC40-211. This action will align the regulation with state and federal law, remove and add definitions, and clarify language.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action will clarify regulation requirements and remove unnecessary definitions.
Expected Date	Submitted to OAG on 7/25/2022

Title of Proposed Regulatory Action or Guidance Document Amend Standards for Licensed Children’s Residential Facilities (22VAC40-151)	
Brief Overview This regulation provides standards for the public and DSS to evaluate the safety and stability of care that children and youth receive in licensed children’s residential facilities (CRF). Proposed amendments are intended to bring the regulation into alignment with federal Preventing Sex Trafficking and Strengthening Families Act of 2014 and the Family First Prevention Services Act of 2018. This action will align the regulation with state and federal law, remove and add definitions, and clarify language.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input checked="" type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action will clarify regulation requirements and remove unnecessary definitions.
Expected Date	To be determined, but at least 60 days prior to the State Board of Social Services meeting date.

Title of Proposed Regulatory Action or Guidance Document Update Standards for Assisted Living Facilities (22VAC40-72)	
Brief Overview Assisted living facilities are non-medical residential settings that provide or coordinate personal & health care services, 24-hour supervision and assistance for the care of four or more adults who aged, infirm or disabled. Standards for Assisted Living Facilities, 22VAC40-72, address ALF personnel qualifications, staffing & supervision, and resident care. This action will align the regulation to add requirements for involuntary discharge of residents, to comply with Chapter 706 of the Acts of Assembly- 2022 Session.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input checked="" type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action is a requirement of Chapter 706 of the Acts of Assembly and is not a deregulatory effort.
Expected Date	October 2022

Title of Proposed Regulatory Action or Guidance Document Update Standards for Assisted Living Facilities (22VAC40-72)	
Brief Overview Assisted living facilities are non-medical residential settings that provide or coordinate personal & health care services, 24-hour supervision and assistance for the care of four or more adults who aged, infirm or disabled. Standards for Assisted Living Facilities, 22VAC40-72, address ALF personnel qualifications, staffing & supervision, and resident care. This action will simplify and clarify language, improve definitions, and make technical edits for ease of understanding and any other changes deemed necessary after public comment and review.	
Regulatory Stage (check one box)	<input checked="" type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This action will include deregulatory amendments, pursuant to EO19.
Expected Date	October 2022

Title of Proposed Regulatory Action or Guidance Document Update Child Support Enforcement Program (22VAC40-880)	
Brief Overview The agency recommends amending the regulation to enhance consistency with the Code of Virginia and applicable federal law. In addition, the Board may make simple amendments where necessary to the existing regulation for the purpose of clarity and reformatting of information to conform to the requirements of the Form, Style, and Procedure Manual for Publication of Virginia Regulations. This action is in follow up to a 2019 periodic review.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input checked="" type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input type="checkbox"/> Guidance Document
Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	The changes may remove a requirement to use ineffective enforcement actions and clarify the definition of “application” to streamline access by the public.
Expected Date	By June 2023

Title of Proposed Regulatory Action or Guidance Document Child Support State Plan Updates	
Brief Overview The Division of Child Support Enforcement maintains a State Plan as a condition of federal funding. The State Plan communicates policy elections and routine organizational information to the federal Office of Child Support Enforcement.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input checked="" type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
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Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	NA
Expected Date	November 2022

Title of Proposed Regulatory Action or Guidance Document DSS Licensure and Disciplinary Guidelines	
Brief Overview This is a new Division of Licensing Programs guidance document that will describe a risk assessment and disciplinary guideline system which allows the agency to grant initial and renewal licenses and to sanction facilities with inspection violations. It will apply to all DSS-licensed programs. This system will simplify the process and streamline decision criteria to ensure a safe environment for vulnerable children and adults receiving services. It will be tool for the agency and impose no new requirements on licensees.	
Regulatory Stage (check one box)	<input type="checkbox"/> NOIRA <input type="checkbox"/> Proposed Rule <input type="checkbox"/> Final Rule <input type="checkbox"/> Emergency Rule <input type="checkbox"/> Fast-Track Rule
Additional Description	<input type="checkbox"/> Expedited Rule <input type="checkbox"/> Exempt Rule <input checked="" type="checkbox"/> Guidance Document
Legal Authority	<input type="checkbox"/> Action required by federal statute <input type="checkbox"/> Action required by state statute <input checked="" type="checkbox"/> Discretionary action
Deregulatory Component	This guidance document is not a deregulatory effort.
Expected Date	Target date for submission to the Registrar's office for publication is 12/5/22.

Title of Proposed Regulatory Action or Guidance Document Child & Family Services Manual, TANF Manual & SNAP Manual	
Brief Overview These manuals provide guidance to local departments of social services on provision of child welfare services and public assistance. It is expected that one or more manual will need updating, to conform to 2023 General Assembly changes. In addition, these programs are partially funded with federal funds. In the event of a new federal directive, the applicable manual would require updating.	
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Legal Authority	<input checked="" type="checkbox"/> Action required by federal statute <input checked="" type="checkbox"/> Action required by state statute <input type="checkbox"/> Discretionary action
Deregulatory Component	
Expected Date	July 2023

Periodic Reviews

In addition to the planned regulatory actions above, the agency is scheduled to conduct seven periodic reviews by June 30, 2023. During the reviews, the agency will review discretionary requirements to identify those that may be appropriate for the State Board of Social Services to consider repealing. A request to update the Unified Regulatory Plan will be made as needed.