

TITLE 22. SOCIAL SERVICES

DEPARTMENT OF SOCIAL SERVICES

Emergency Regulation

Title of Regulation: 22VAC40-211. Foster and Adoptive Home Approval Standards for Local Departments of Social Services (adding 22VAC40-211-130).

Statutory Authority: §§ 63.2-217 and 63.2-319 Code of Virginia

Effective Dates: January 4, 2021, through July 3, 2022.

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Preamble:

Section 2.2-4011 B of the Code of Virginia states that agencies may adopt emergency regulations in situations in which Virginia statutory law or the appropriation act or federal law or federal regulation requires that a regulation be effective in 280 days or less from its enactment, and the regulation is not exempt under the provisions of § 2.2-4006 A 4 of the Code of Virginia.

Pursuant to Chapter 336 of the 2019 Acts of Assembly, the amendments add new regulatory requirements that a local board of social services and a licensed child-placing agency (LCPA) provide foster parents with (i) all reasonably ascertainable background, medical, and psychological records of the child prior to placement; (ii) all information relevant to the child's foster care services; and (iii) copies of all documents related to the foster parent, the foster parent's family, and services provided to the foster home on an ongoing basis. Local boards and LCPAs are also required to notify foster parents of court hearings; scheduled meetings; decisions made by the court, local board, or LCPA concerning the child's foster care service, changes to the child's case plan, or termination of child's placement in a timely manner. The regulation also requires the timely response to requests for information regarding the child's progress after leaving foster care if it is in the child's best interest. The regulation sets forth a dispute resolution process through which a foster parent may contest an alleged violation by the local board or LCPA, including an appeal process for the foster parent.

22VAC40-211-130. Foster parent bill of rights and dispute resolution process.

A. In accordance with § 63.2-902 of the Code of Virginia relating to foster care agreements and the rights of foster parents regarding resolution of disputes, each local department of social services shall implement and ensure that all foster parents receive a copy of the Foster Parent Bill of Rights and that a signed copy of receipt is placed in the foster parent's file.

Foster parents shall abide by all responsibilities as set forth in state and federal law, including all responsibilities set forth in this chapter.

In addition to any claim for benefits pursuant to 42 USC § 671 et seq., and pursuant to § 63.2-905 of the Code of Virginia, all foster parents have the following rights regarding collaboration, communication, access, and transparency:

1. To be regarded as the primary caretaker of a child placed in foster care and to be treated with dignity, respect, trust, value, and consideration, including the local department giving due consideration to the foster parent's family values, traditions, and beliefs;
2. To receive copies of all documents related to the foster parent, the foster parent's family, and ongoing services provided to the foster home;
3. To be considered part of the foster care team and to be able to contribute input regarding the child's permanency plan and receive copies of the plan;
4. To be provided all reasonably ascertainable background, medical, and psychological records of the child prior to placement, at the initial placement, or at any time during the placement of a child in foster care;
5. To be provided all information relevant to the child's foster care services as allowed by federal and state law;
6. To be notified of court hearings and scheduled meetings;
7. To be informed of decisions made by the court, local board, or licensed child-placing agency concerning the child's foster care services;
8. To be able to communicate, to the extent permitted under federal and state law, with professionals who work directly with the child in foster care, including therapists, physicians, and teachers;
9. To be informed in a timely manner of changes to the child's case plan or the termination of the child's placement;
10. To be afforded the same rights as outlined in the Foster Care Placement Agreement and the Code of Ethics and Mutual Responsibilities;
11. To be provided with reimbursements for costs associated with foster care services in a timely manner;
12. To be provided with a method to contact the local board or licensed child-placing agency for assistance 24 hours a day and seven days a week; and
13. To receive a timely response from the local department of social services regarding whether or not information may be provided to requests for information regarding the child's progress after leaving foster care.

B. Foster parents have a right to file a complaint regarding alleged violations of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents. When filing such a complaint, foster parents must follow the following steps:

1. The foster parent shall contact the service worker assigned to the foster home within 10 business days and provide a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child placing agencies, and the foster parents and attempt to resolve the dispute.
2. The service worker shall respond within five business days and explain any corrective action to be taken in response to the foster parent's complaint.

3. If the foster parent and service worker are unable to resolve the complaint informally, the foster parent may file a written complaint through the dispute resolution process with the local board's foster care supervisor or assigned designee.

a. The written complaint shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and a copy of the service worker's response.

b. The written complaint shall be sent to the supervisor and must be received by the supervisor within 10 business days of the foster parent receiving the service worker's response.

4. The foster care supervisor or assigned designee shall respond to the complaint in writing within five business days setting forth all findings regarding the alleged violation and any corrective action taken.

5. If the foster parent disagrees with the findings or corrective actions proposed by the foster care supervisor or assigned designee, the foster parent may appeal the decision to the local director by filing a written notice of appeal.

a. The notice of appeal shall include a detailed description of the conduct constituting the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and a copy of the foster care supervisor or assigned designee's findings or recommendations.

b. The notice of appeal shall be sent to the local director and must be received by the local director within 10 business days of the foster parent receiving the supervisor's response.

6. The local director shall hold a meeting between all parties within seven business days to gather any information necessary to determine (i) the validity of the alleged violation of the regulations governing collaboration, communication, access, and transparency between the local boards, the licensed child-placing agencies, and the foster parents and (ii) the appropriateness of any recommendations for corrective action made by the family services specialist and foster care supervisor or assigned designee.

7. A summary of the meeting shall be documented in writing by the service worker after approval by the foster care supervisor or assigned designee.

8. Following such meeting and documentation, the local director shall issue to all parties written findings and, when applicable, recommendations for corrective actions.

C. The dispute resolution process set forth in subsection B of this section does not apply to a complaint related to the denial or failure of a local board to act upon an individual's claim for benefits. Complaints related to a claim for benefits shall be appealable pursuant to 42 USC § 671(a)(12) and 22VAC40-201-115.