



**Virginia
Regulatory
Town Hall**

**Notice of Intended Regulatory Action
Agency Background Document**

Agency Name:	Board of Juvenile Justice
VAC Chapter Number:	6 VAC 35-30
Regulation Title:	REGULATIONS FOR APPROVING JUVENILE RESIDENTIAL FACILITIES AND FOR STATE REIMBURSEMENT OF LOCAL JUVENILE RESIDENTIAL FACILITY COSTS
Action Title:	Amend the regulation to accommodate statutory changes, and expand the scope to cover approval, as well as reimbursement, of juvenile residential facilities to hold children.
Date:	June 26, 2001

This information is required prior to the submission to the Registrar of Regulations of a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B). Please refer to Executive Order Twenty-Five (98) and Executive Order Fifty-Eight (99) for more information.

Purpose

Please describe the subject matter and intent of the planned regulation. This description should include a brief explanation of the need for and the goals of the new or amended regulation.

This regulation establishes the process for evaluating requests from localities for state reimbursement of local juvenile residential facility construction costs, including criteria to assess need and establish priorities for construction projects, and a methodology for determining appropriate costs. The regulation also provides the basis for the Department's "Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities" which address technical matters of construction and furnishings.

The proposed regulation is expanded to provide a basis for approving residential facilities for juveniles (see Code of Virginia § 16.1-249 A (3) and (4)). By linking the process for reimbursing construction of juvenile residential facilities to the process of approving such facilities, the regulation applies the same standards and considerations to all juvenile residential facilities

constructed in Virginia, whether or not the facility's sponsor initially seeks reimbursement from the Commonwealth.

Basis

Please identify the state and/or federal source of legal authority to promulgate the contemplated regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. The correlation between the proposed regulatory action and the legal authority identified above should be explained. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided.

The general authority of the Board of Juvenile Justice to promulgate regulations is found in Code of Virginia § 66-10 (6), which provides that the Board shall have the power and duty "[t]o promulgate such regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth administered by the Director or the Department."

The specific legal authority of the Board to promulgate regulations governing reimbursement of construction costs for juvenile residential facilities is found in Code of Virginia § 16.1-309.5 (C): "The Board shall promulgate regulations to include criteria to serve as guidelines in evaluating requests for such reimbursements and to ensure the geographically equitable distribution of state funds for such purpose."

Substance

Please detail any changes that would be implemented: this discussion should include a summary of the proposed regulatory action where a new regulation is being promulgated; where existing provisions of a regulation are being amended, the statement should explain how the existing regulation will be changed. 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 citizens. In addition, a statement delineating any potential issues that may need to be addressed as the regulation is developed shall be supplied.

The regulation must be revised to accommodate statutory changes since the regulation was promulgated. The major change appears in Code of Virginia §16.1- 309.5, which now states that "no such reimbursement shall be made ... unless the plans and specifications, including the need for additional personnel therefor, have been submitted to the Governor and the construction has been approved by him." Changes to the regulation provide a process that includes the Governor's approval of the Board's endorsement of a reimbursement for construction costs.

The Department is recommending some additional changes, as well. The Department recommends expanding the regulation's scope to include construction projects for which reimbursement is NOT currently being sought by the sponsor. The purpose is to provide a legal

basis and guidelines for the Department's approval or disapproval of certain facilities under Code of Virginia § 16.1-249 A (3) and (4).

Here is a brief synopsis of the proposed changes:

A new section 6 VAC 35-30-35 would direct the Department to publish guidelines governing submission of projects for review, the procedures for evaluating proposals, the process for resolving differences between the sponsor and the Department, and the procedure for submitting materials to the Board.

Amended 6VAC35-30-40 (1) would require the Department to publish an annual schedule of the dates by which materials are due in connection with reimbursement requests, and the dates by which the Board must act in order to meet deadlines required by other authorities. Incomplete or late submissions will not be submitted to the board or other applicable authority during the current review cycle.

6VAC35-30-40 (2) is amended to accommodate the approval of the Secretary of Public Safety on behalf of the Governor (see Code of Virginia § 16.1-309.5.C.).

Amended 6VAC35-30-40 (3) clarifies that the next Board action is based on the planning study, including architectural and engineering drawings at the 15% complete stage. Again, provision is made specifically for review by the Secretary of Public Safety.

6VAC35-30-60.D is amended to clarify that sponsors may meet the requirements of the needs assessment in phases (and be reimbursed as each phase is completed) only if they request such an arrangement when the planning study is submitted.

6 VAC35-30-90, 6 VAC 35-30-100, 6 VAC 35-30-130 A, 6 VAC 35-30-130 C and 6 VAC 35-30-140 are amended to provide the regulatory basis for the Department's approval of detention homes and group homes under Code of Virginia § 16.1-249.A (3) and other places designated by the court under § 16.1-249.A (4), whether or not the sponsor will seek reimbursement from the Commonwealth for the project.

Alternatives

Please describe, to the extent known, the specific alternatives to the proposal that have been considered or will be considered to meet the essential purpose of the action.

The regulation is mandated by Code of Virginia § 16.1-309.5(C). Therefore, the only alternatives are between regulatory philosophies and between specific requirements to be included or excluded from the regulation. The Department has opted to deal with the many technical details of construction in "Guidelines for Minimum Standards in Design and Construction of Juvenile Facilities," which are included as an appendix to the regulation but which may also be reproduced as a stand-alone guidance document for use by sponsors of construction projects. While the Board retains ultimate approval authority for compliance with the Guidelines, it delegates to the Department the authority to determine substantially equivalent compliance with the specific standards in the Guidelines. The approach allows each locality to build a facility that suits its own juvenile correctional philosophy and the needs of its own population; it also allows a sponsor to build using new technologies that accomplish basic goals in more cost effective ways. This approach recognizes that juvenile detention homes do not all share the same program

philosophy, face the same security needs, or enjoy the same financial and human resources that can make such a difference in the kind of facility a locality might choose to construct.

Family Impact Statement

Please provide a preliminary analysis of the potential 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.

The regulation will have no direct impact, either positive or negative, on the institution of the family.