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## Exempt Action: Final Regulation Agency Background Document

<b>Agency name</b>	State Board of Social Services
<b>Virginia Administrative Code (VAC) Chapter citation(s)</b>	22VAC40-675
<b>VAC Chapter title(s)</b>	Personnel Policies for Local Departments of Social Services
<b>Action title</b>	Updates to Personnel Policies for Local Departments of Social Services
<b>Final agency action date</b>	August 16, 2023
<b>Date this document prepared</b>	July 21, 2023

This information is required for executive branch review pursuant to Executive Order 19 (2022) (EO 19), any instructions or procedures issued by the Office of Regulatory Management (ORM) or the Department of Planning and Budget (DPB) pursuant to EO 19. In addition, this information is required by the Virginia Registrar of Regulations pursuant to the Virginia Register Act (§ 2.2-4100 et seq. of the Code of Virginia). Regulations must conform to the Regulations for Filing and Publishing Agency Regulations (1 VAC 7-10), and the *Form and Style Requirements for the Virginia Register of Regulations and Virginia Administrative Code*.

### Brief Summary

*Provide a brief summary (preferably no more than 2 or 3 paragraphs) of this regulatory change (i.e., new regulation, amendments to an existing regulation, or repeal of an existing regulation). Alert the reader to all substantive matters. If applicable, generally describe the existing regulation.*

- Amendments proposed subsection A of 22VAC40-675-180 (Equal Employment Opportunity) involve rewording of the entire subsection for clarity and simplicity, to include the removal of a listing of protected classes. The listing is present in both federal and state law. The change is intended to reduce the complexity the regulation while also preventing future changes to the regulation if the listing changes due to changes in federal law. This adjustment corresponds to the Equal Employment Opportunity Commission (EEOC) Title VII (42 USC Section 2000e-2), Americans with Disabilities Act (ADA; 29 CFR §1630.4), Uniformed Services Employment and Reemployment Rights Act

(USERRA; 38 U.S. Code § 4311), and Title II of the Genetic Information Nondiscrimination Act (GINA). Amendments to subsections B of 22VAC40-675-180 (Equal employment opportunity) are needed to address conflicts with federal law. Subsection B requires removal from the chapter. It is no longer a requirement of local jurisdictions to complete an Affirmative Action Plan. According to new updates and information from the Department of Labor, even if a local jurisdiction holds federal contracts, they are exempt from the requirement to develop and maintain a written affirmative action program. This adjustment corresponds to 41 CFR § 60-1.5.

- Amendments proposed to subsections C & D of 22VAC40-675-180 are updates to the location where employees or applicants of local departments of social services will file discrimination complaints. The current location listed is incorrect.
- Changes proposed in all other sections of the regulation (22VAC40-675-40 and 22VAC40-675-190) are for style, form, correction, and syntax, and are intended to improve clarity.

### Mandate and Impetus

*Identify the mandate for this regulatory change and any other impetus that specifically prompted its initiation (e.g., new or modified mandate, internal staff review, petition for rulemaking, periodic review, or board decision). For purposes of executive branch review, "mandate" has the same meaning as defined in the ORM procedures, "a directive from the General Assembly, the federal government, or a court that requires that a regulation be promulgated, amended, or repealed in whole or part."*

The mandate for these regulatory changes is a periodic review.

- Changes proposed to 22VAC40-675-180A involve rewording of the entire subsection for clarity and simplicity, to include the removal of a listing of protected classes. The listing is present in both federal and state law. The change is intended to reduce the complexity the regulation while also preventing future changes to the regulation if the listing changes due to changes in federal law. This adjustment corresponds to EEOC Title VII (42 USC Section 2000e-2), ADA (29 CFR §1630.4), USERRA (38 U.S. Code § 4311), and Title II of GINA.
- Changes proposed to 22VAC40-675-180B are intended to bring the regulation into compliance with federal law and correspond to 41 CFR § 60-1.5.
- Changes proposed to subsections C & D of 22VAC40-675-180 are updates to the location where employees or applicants of local departments of social services will file discrimination complaints.
- The other proposed changes (grammatical/syntactical) are prompted from directives in the periodic review process to reduce complexity of regulations.

### Statement of Final Agency Action

*Provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

The State Board of Social Services took final action on Personnel Policies for Local Departments of Social Services on June 21, 2023.