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Periodic Review and Small Business Impact Review Report of Findings

Agency name	Department for the Blind and Vision Impaired
Virginia Administrative Code (VAC) Chapter citation(s)	22 VAC 45-51
VAC Chapter title(s)	Regulations Governing Provisions of Services in Vocational Rehabilitation
Date this document prepared	November 21, 2023

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), 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, 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*.

Acronyms and Definitions

Define all acronyms used in this Report, and any technical terms that are not also defined in the “Definitions” section of the regulation.

DBVI, Agency, Department – Department for the Blind and Vision Impaired

Legal Basis

Identify (1) the promulgating agency, and (2) the state and/or federal legal authority for the regulatory change, including the most relevant citations to the Code of Virginia or Acts of Assembly chapter number(s), if applicable. Your citation must include a specific provision, if any, authorizing the promulgating agency to regulate this specific subject or program, as well as a reference to the agency's overall regulatory authority.

Department for the Blind and Vision Impaired. Code of Virginia § 51.5-60 Definitions.

Department for the Blind and Vision Impaired. Code of Virginia § 51.5-65 Functions, duties and powers of Commissioner. In addition to the functions, duties, and powers conferred and imposed upon the Commissioner by other provisions of law, he shall ensure that the provisions of this chapter are properly administered and adopt regulations to carry out the applicable provisions of this chapter.

Code of Virginia §§ 2.2-4017 (Periodic review of regulations), 2.2-4007 (Notice of intended regulatory action; public hearing), and Executive Order 17 (2004) in combination require that every state regulation must be reviewed every four years to ensure the regulation is supported by statutory authority, determine that the regulation is necessary for the protection of public health, safety and welfare and are clearly written and easily understandable, and to make sure the regulations economic impact on small business is minimized as much as possible.

US Department of Education, 34 CFR Parts 361 State Vocational Rehabilitation Services Program and 363 State Supported Employment Services Program.

The Rehabilitation Act, as amended by the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. § 3101 et seq.).

US Department of Labor, Fair Labor Standards Act (29 U.S.C. § 201 et seq.).

Alternatives to Regulation

Describe any viable alternatives for achieving the purpose of the regulation that were considered as part of the periodic review. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving its purpose.

There are no other viable options for achieving the purpose of the regulation because of the specificity and requirements of the Rehabilitation Act of 1973, as amended by the Workforce Innovation and Opportunity Act of 2014 (29 U.S.C. § 3101 et seq..)

It should be noted that this regulation is being reviewed based on current agency Regulatory Reduction activities.

Public Comment

Summarize all comments received during the public comment period following the publication of the Notice of Periodic Review, and provide the agency's response. Be sure to include all comments submitted: including those received on Town Hall, in a public hearing, or submitted directly to the agency. Indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

No public comment received

Effectiveness

Pursuant to § 2.2-4017 of the Code of Virginia, indicate whether the regulation meets the criteria set out in the ORM procedures, including why the regulation is (a) necessary for the protection of public health, safety, and welfare, and (b) is clearly written and easily understandable.

22 VAC 45-51 protects the public health, safety, and welfare of Virginia's residents who are blind, vision impaired, or deafblind by establishing regulations governing provisions of services in vocational rehabilitation whose purpose is to assist the same individuals to obtain, maintain, and regain competitive gainful employment.

The regulation is clear and concise and explains that the chapter is promulgated by DBVI to govern the provision of vocational rehabilitation services to individuals who are blind, vision impaired and deafblind. The regulation addresses protection, use, and release of personal information; processing of referrals and applications for services; eligibility determinations; comprehensive assessments of qualifications for individualized plans for employment; establishment of order of selection; scope of services; development of individualized plan for employment; participation in cost of services; participation in use of comparable services and benefit; periodic review of ineligibility determinations and extended employment; and review of determinations made by the agency.

Decision

Explain the basis for the promulgating agency's decision (retain the regulation as is without making changes, amend the regulation, or repeal the regulation).

If the result of the periodic review is to retain the regulation as is, complete the ORM Economic Impact form.

Retain as is at this time pending OAG review of potential amendments to the existing regulation.

Small Business Impact

As required by § 2.2-4007.1 E and F of the Code of Virginia, discuss the agency's consideration of: (1) the continued need for the regulation; (2) the nature of complaints or comments received concerning the regulation; (3) the complexity of the regulation; (4) the extent to which the regulation overlaps, duplicates, or conflicts with federal or state law or regulation; and (5) the length of time since the regulation has been evaluated or the degree to which technology, economic conditions, or other factors have changed in the area affected by the regulation. Also, discuss why the agency's decision, consistent with applicable law, will minimize the economic impact of regulations on small businesses.

22 VAC 45-51 is required for DBVI to comply with requirements set forth in US Department of Education Parts 34 CFR 361 and 363. The agency has not received any complaints or comments concerning the regulation.

The regulation is not complex; it is easy to read and understand. The regulation was last reviewed and amended in 2016 and does not conflict with other state or federal regulation. There are no substantial changes in technology, economic conditions, or other factors that impact the importance of implementation of the regulation.

Economic impact on small business generally is negligible because the regulation pertains specifically to the provision of vocational rehabilitation services to individuals who are blind, vision impaired, and deafblind. Additionally, members of the small business community have opportunity to make public comment during periodic review and annually as part of DBVI's conduct of public meetings.