



townhall.virginia.gov

## Emergency Regulation and Notice of Intended Regulatory Action (NOIRA) Agency Background Document

<b>Agency name</b>	Department for Aging and Rehabilitative Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	__22__ VAC 30__ - _20__
<b>Regulation title(s)</b>	Provision of Vocational Rehabilitation Services
<b>Action title</b>	Amend Order of Selection Categories
<b>Date this document prepared</b>	October 17, 2016

This form is used when an agency wishes to promulgate an emergency regulation (to be effective for up to eighteen months), as well as publish a Notice of Intended Regulatory Action (NOIRA) to begin the process of promulgating a permanent replacement regulation. This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

In the event that the department cannot provide the full range of vocational rehabilitation services to all eligible individuals who apply because of insufficient resources, an order of selection may be implemented to determine those persons to be provided services. The amendment to this regulation will reduce the number of categories the agency has from four to three.

## Acronyms and Definitions

*Please define all acronyms used in the Agency Background Document. Also, please define any technical terms that are used in the document that are not also defined in the "Definition" section of the regulations.*

DARS Department for Aging and Rehabilitative Services  
RSA Rehabilitation Services Administration

## Emergency Authority

*The APA (Code of Virginia § 2.2-4011) 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 subdivision A. 4. of § 2.2-4006. Please explain why this is an emergency situation as described above, and provide specific citations to the Code of Virginia or the Appropriation Act, if applicable.*

§ 2.2-4011. Emergency regulations; publication; exceptions. Subsection A.

## Legal basis

*Other than the emergency authority described above, please identify the state and/or federal legal authority to promulgate this proposed regulation, including: 1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and 2) the promulgating entity, i.e., agency, board, or person.*

§ 51.5-131. Powers and duties of Commissioner.

## Purpose

*Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.*

The intent of this amendment is to reduce the priority categories for order of selection from four to three. The Rehabilitation Services Administration (RSA), the federal agency that regulates the state-federal vocational rehabilitation program, is requiring that DARS reduce the number of its categories for the order of selection for persons determined to be eligible for services. The reason given is that there is not enough difference between current priority category two and current priority category three. Therefore, RSA is requiring that priority category two and priority category three be combined into one category.

## Need

*Please describe the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. In addition, delineate any potential issues that may need to be addressed as the regulation is developed.*

RSA is requiring this change to the existing regulations. The welfare of citizens will be better protected because the proposed amendment will make the regulation simpler for the public to understand and easier for DARS to implement. There are no other known issues that need to be addressed as the regulation is developed.

### Substance

*Please describe any changes that are proposed. Please outline new substantive provisions, all substantive changes to existing sections, or both where appropriate. Set forth the specific reasons the agency has determined that the proposed regulatory action is essential to protect the healthy, safety, or welfare of Virginians.*

For changes to existing regulations, use this chart:

Current section number	Proposed new section number, if applicable	Current requirement	Proposed change, intent, and likely impact of proposed requirements
90		Priority I. An individual with a most significant disability in accordance with the definition in 22VAC30-20-10. b. Priority II. An individual with a significant disability that results in serious functional limitations in two functional capacities- c. Priority III. An individual with a significant disability that results in a serious functional limitation in one functional capacity. d. Priority IV, Other persons determined to be disabled, in order of eligibility determination.	Proposed change will combine priority categories II and III into the following one category:  <u>b. Priority II. An individual with a significant disability that results in a serious functional limitation in at least one functional capacity.</u>  RSA is requiring that this change be made.  The impact of this change will make the implementation of priority categories easier for the public to understand and DARS staff to follow.

### Alternatives

*Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action. Also describe the process by which the agency has considered or will consider other alternatives for achieving the need in the most cost-effective manner.*

---

No other alternative to this regulatory change have been considered. RSA is requiring this change.

### Public participation

*Please indicate whether the agency is seeking comments on the intended regulatory action, to include ideas to assist the agency in the development of the proposal and the costs and benefits of the alternatives stated in this notice or other alternatives. Also, indicate whether a public meeting is to be held to receive comments. Please also indicate whether a Regulatory Advisory Panel or a Negotiated Rulemaking Panel has been used in the development of the emergency regulation and whether it will also be used in the development of the permanent regulation.*

---

The agency is seeking comments on this regulatory action, including but not limited to: ideas to be considered in the development of this proposal, the costs and benefits of the alternatives stated in this background document or other alternatives, and the potential impacts of the regulation.

The agency is also seeking information on impacts on small businesses as defined in § 2.2-4007.1 of the Code of Virginia. Information may include: projected reporting, recordkeeping, and other administrative costs; the probable effect of the regulation on affected small businesses; and the description of less intrusive or costly alternatives for achieving the purpose of the regulation.

Anyone wishing to submit comments may do so via the Regulatory Town Hall website (<http://www.townhall.virginia.gov>), or by mail, email, or fax to Vanessa S. Rakestraw, Department for Aging and Rehabilitative Services, 8004 Franklin Farms Drive, Richmond, VA 23229, fax number (804) 662-7663, [Vanessa.Rakestraw@dars.virginia.gov](mailto:Vanessa.Rakestraw@dars.virginia.gov). Written comments must include the name and address of the commenter. In order to be considered, comments must be received by midnight on the last day of the public comment period.

A public hearing will not be held following the publication of the proposed stage of this regulatory action.

### Family impact

*Please assess the impact of this 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.*

---

This amendment is not expected to have any impact on the institution of the family or family stability.