



## ***COMMONWEALTH of VIRGINIA***

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### **MEMORANDUM**

**TO: L. RICHARD MARTIN, JR.**  
Virginia Department of Social Services

**FROM: USHA KODURU**  
Assistant Attorney General

**DATE: March 16, 2007**

**SUBJECT: Final Regulation 22 VAC 40-41-10 et seq.**  
**Neighborhood Assistance Program**

I have reviewed the attached proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the attached final regulation and if the final regulation comports with applicable state law.

It is this Office's view that the State Board has the authority to promulgate the proposed regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 21 (2002), and has not exceeded that authority.

It appears that several changes to the final regulation are not changes with "substantial impact," and, therefore do not necessitate an additional comment period. Those changes are merely technical in nature or clarify the language in the regulation.

It also appears that there are a couple of changes that constitute changes with "substantial impact," and could necessitate an additional comment period. Please note that Va. Code § 2.2-4013(B) requires that all changes to the proposed regulations be highlighted in the final regulations, and it appears that this requirement has been fulfilled. Also, pursuant to § 2.2-4013(C), if the Governor finds that one or more changes with substantial impact have been made to the proposed regulation, he may direct DSS to provide an additional thirty days to solicit additional public

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comment on the changes. In addition, Va. Code § 2.2-4007(K) requires the agency to solicit additional public comment if it receives requests from at least twenty-five persons for an opportunity to submit oral and written comments on the changes to the regulation and if one or more changes with substantial impact were made to the proposed regulation.

Please contact me at (804) 786-4905 if you have questions about this matter.

Attachment