



Virginia
Regulatory
Town Hall

Periodic Review and
Notice of Intended Regulatory Action
Agency Background Document

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| Agency Name: | Board of Corrections |
| VAC Chapter Number: | 6 VAC 15-10-10 et seq. |
| Regulation Title: | Public Participation Guidelines |
| Action Title: | NOIRA |
| Date: | April 10, 2001 |

This information is required pursuant to the Administrative Process Act § 9-6.14:25, Executive Order Twenty-Five (98), and Executive Order Fifty-Eight (99) which outline procedures for periodic review of regulations of agencies within the executive branch. Each existing regulation is to be reviewed at least once every three years and measured against the specific public health, safety, and welfare goals assigned by agencies during the promulgation process.

This form should be used where the agency is planning to amend or repeal an existing regulation and is required to be submitted to the Registrar of Regulations as a Notice of Intended Regulatory Action (NOIRA) pursuant to the Administrative Process Act § 9-6.14:7.1 (B).

Summary

Please provide a brief summary of the regulation. There is no need to state each provision; instead give a general description of the regulation and alert the reader to its subject matter and intent.

Public Participation Guidelines outline how the agency plans to ensure public participation in the formation and development of regulations, as required by the Administrative Process Act. These regulations provide for the receipt of documents related to promulgation of regulations, as well as procedures for rulemaking, notices, public hearings and a periodic review of regulations. The regulations further establish provisions for ad hoc advisory committees in the development of regulations.

Basis

Please identify the state and/or federal source of legal authority for the regulation. The discussion of this authority should include a description of its scope and the extent to which the authority is mandatory or discretionary. Where applicable, explain where the regulation exceeds the minimum requirements of the state and/or federal mandate.

The statutory authority for this regulation is the Administrative Process Act section 9-6.14:7.1, which specifically mandates the adoption of public participation guidelines pursuant to the provisions of the Act. This section requires each agency to solicit the input of interested parties in the formation and development of its regulations, and to set out methods for the identification and notification of interested parties. The Office of the Attorney General has certified that the agency has the authority to amend the current regulation pursuant to section 53.1-5 of the Code of Virginia.

Public Comment

Please summarize all public comment received as the result of the Notice of Periodic Review published in the Virginia Register and provide the agency response. Where applicable, describe critical issues or particular areas of concern in the regulation. Also please indicate if an informal advisory group was or will be formed for purposes of assisting in the periodic review or development of a proposal.

An announcement of the board's periodic review of its Public Participation Guidelines was posted on the Virginia Regulatory Townhall website, and was sent to the Registrar of Regulations for initial publication on 2/26/01. Public comment was solicited through the end of business on 3/30/01. During the public comment period, no comments were received from members of the public.

The board will hold another 30-day public comment period on the Notice of Intended Regulatory Action and a 60-day public comment period on the proposed regulation.

Effectiveness

Please provide a description of the specific and measurable goals of the regulation. Detail the effectiveness of the regulation in achieving such goals and the specific reasons the agency has determined that the regulation is essential to protect the health, safety or welfare of citizens. In addition, please indicate whether the regulation is clearly written and easily understandable by the individuals and entities affected.

The primary goal for this regulation is to provide consistent, written procedures that will ensure input from interested parties during the development, review, and final stages of the regulatory process.

Since the effective date of the current Public Participation Guidelines in July, 1994, the board has followed regulations by notifying the public of any board meeting, and has solicited input regarding intended regulatory actions, comment periods on a proposed regulations and adoption of the final regulations. Opportunities for written and oral comment have been provided, and with increased availability of e-mail and fax, comments may be received electronically. In addition, the board now provides information through the Virginia Regulatory Townhall.

Following the periodic review process, the board determined that the current Public Participation Guidelines are reasonable, clearly stated and adequate to protect the public interest in the development and promulgation of regulations. Amendments proposed are necessary to provide additional clarity and to update of the requirements outlined in Executive Orders 24(98) and 25(98).

Alternatives

Please describe the specific alternatives for achieving the purpose of the existing regulation that have been considered as a part of the periodic review process. This description should include an explanation of why such alternatives were rejected and this regulation reflects the least burdensome alternative available for achieving the purpose of the regulation.

Because the law currently mandates each agency to promulgate guidelines for public participation, no reasonable alternative exists for achieving the purpose of the regulation.

Recommendation

Please state whether the agency is recommending the regulation be amended or terminated and the reasons such a recommendation is being made.

The board is recommending amendments to its Public Participation Guidelines regulations in order to clarify the wording of the regulation, to incorporate forms of notification through the Virginia Regulatory Townhall and the Commonwealth Calendar, and to improve the procedure for public involvement in the process.

Substance

Please detail any changes that would be implemented.

Several broad areas have been identified as needing clarification or inclusion into the Public Participation Guidelines, including: clarify responsibility for developing and maintaining a current list of interested parties; require that notices include instructions on how to obtain a copy of the regulations and any supporting documentation, either from the board contact or from the Virginia Regulatory Townhall; expand the means of notification and comment to include those

sent and received electronically; amend to recognize that Executive Orders may direct a schedule of regulatory review which is different from a review each biennium. The board will consider any and all additional suggested amendments that may be provided by the public during the public comment period.

Family Impact Statement

Please provide a preliminary analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which 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.

In its preliminary analysis of the proposed regulatory action, the agency has determined that there is no potential impact on the institution of the family and family stability.