

VA ADC T. 22, Agcy. 40, Ch. 100, Refs & Annos

22 VAC 40-100-10

22 VAC 40-100-10. Definitions.

A. A child caring institution, as defined in Chapter 10 (§ 63.1-195 et seq.) of Title 63.1 of the Code of Virginia, is any facility, other than an institution operated by the State, a county, or city, and maintained for the purpose of receiving children for full-time care, maintenance, protection, and guidance separated from their parents or guardians except:

1. A bona fide educational institution (or boarding school) whose pupils, in the ordinary course of events, return annually to the home of their parents or guardians for not less than two months of summer vacation;
2. An establishment required to be licensed as a summer camp; and
3. A bona fide hospital legally maintained as such.

B. A group home is a child caring institution operated by an individual other than in his private family home or by a corporation which does not exceed 12 children, including the group parents' own children.

C. An independent foster home is a private individual foster home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child placing agency except (i) a home in which are received only children related by birth or adoption of the person who maintains such home and legitimate children of personal friends of such person and (ii) a home in which are received a child or children committed under the provisions of subdivisions A 3, C 5 or E 9 of § 16.1-279 of the Code of Virginia.

Any facility caring for more than 12 such children shall not be deemed an independent foster home.

An independent foster home is subject to a different set of standards.

22 VAC 40-100-20

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22 VAC 40-100-20. Sponsorship.

- A. Child caring institutions may be sponsored by a single individual or by a corporation.
- B. Child caring institutions sponsored by a corporation shall maintain their corporate status in accordance with Virginia law.
- C. If a corporation is not organized and empowered solely for the purpose of operating and maintaining a child caring institution, the charter of the corporation shall provide for operation of such an institution in its statement of purpose.

22 VAC 40-100-30

22 VAC 40-100-30. Interdepartmental licensure.

Child caring institutions, group homes, and independent foster homes licensed by other state departments under related licensing statutes may be licensed hereunder without further investigation of compliance with these standards if the commissioner had determined that the standards of such department are in substantial conformity with those established herein.

22 VAC 40-100-40

22 VAC 40-100-40. Licensing procedures.

A. Types of licenses:

1. An annual license is one which is granted to a child caring institution whose program, facilities, and operations meet substantially the minimum standards for a license;
2. A provisional license is one which may be issued following the expiration of an annual license if the applicant is temporarily unable to comply with all of the requirements and under the condition that the requirements will be met within a specific length of time; and
3. A conditional license is one which may be issued to a new facility, at the discretion of the Commissioner, to permit the applicant to demonstrate compliance with all requirements within a specified period of time.

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B. Revocation of suspension. Any institution licensed as aforesaid shall receive a license to operate a child caring institution; provided, however, that the child caring institution license may be revoked or suspended for failure to maintain standards prescribed for the aforementioned institution.

C. Duration of the license. Licenses, except for provisional or conditional ones, expire one year from the date of issuance unless revoked sooner. The license expires automatically if there is a change in location or sponsorship. In such cases, a new application shall be filed as licenses are not transferable. To avoid delay, the Department shall be advised at once of any contemplated change so that it may determine if the proposed change can be approved.

When an annual license expires a provisional license may be issued for any period not to exceed six months; however, no agency may operate under any such provisional license and renewals thereof for a longer period than six successive months.

At the discretion of the Commissioner, a conditional license may be issued to operate a new facility; however, the issuance of a conditional license and any renewals thereof shall be for no longer a period than six successive months.

D. Original license.

1. Application: An individual or group of persons or community agency or sponsoring organization planning to conduct a group program for children shall file an application for a license two months in advance of the planned opening date. The application shall be signed by the individual responsible for operation of the child caring institution or, if the facility is to be operated by a board, the signature of an officer of the board, preferably the chairman, shall be on the application. The application form is provided by and may be obtained from the Department of Welfare.

2. Material to be filed with original application:

a. A statement regarding the sponsorship and organization of the child caring institution together with other information showing who is responsible for policy making, administration, and operation;

b. A copy of the articles of incorporation, if incorporation is required;

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c. A copy of the constitution and bylaws, if any;

d. A list of board members and committees, if any;

e. If staff have been engaged, a record of satisfactory medical examination of each staff member who will come into contact with the children and those who will be engaged in handling and preparation of food;

f. Samples of all forms used such as application forms, agreement forms, etc.; and

g. The application shall incorporate an outline of the institution's program which shall include the standards set forth in the regulations.

3. [Deleted effective February 1, 1984.]

4. Health and fire inspections. Upon receipt of the application, the department will request an inspection and report as to the sanitary conditions from the local health department. An inspection and report from the Office of the State Fire Marshal will be requested where any building comes under the definition of a public building under the Virginia Fire Safety Regulations to determine compliance with this chapter. Inspection and report for fire safety will be requested from the local fire department or other fire officials responsible for fire safety.

5. Study of the application. Following receipt of the application and materials requested above (subdivision D 2 of this section), a representative of the department will make a study of the proposed services and facilities of the applicant.

6. Notice to the applicant of commissioner's action. After the application for license is approved by the commissioner, the applicant will receive by mail a license which, as provided by statute, will set forth the conditions under which he may operate. The terms of the license include the operating name of the child caring institution, the maximum number and age range of the children to be served, and the period of time for which the license is effective. They may include other limitations which the commissioner may prescribe within the

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context of this chapter. An accompanying letter may contain in addition to the limitations on the license, any recommendation regarding activities, services, and facilities to be employed. A letter accompanies a provisional or conditional license and states the reason(s) for its being provisional or conditional.

E. Renewal of annual, provisional or conditional license. The statute requires for continued operation annual renewal of the license or renewal of the provisional or conditional license at its expiration date.

1. Application. An application for renewal of license must be submitted by the applicant on a form furnished by the department which is sent by the department approximately two months prior to the expiration date. The completed application shall be returned to allow time for processing before expiration of the current license.

2. Material to be filed with renewal application of annual license:

a. A current list of board members and committees, if any;

b. A record of satisfactory medical examinations for each staff member (a staff information sheet will be provided by the department);

c. A report of major changes in the program or facilities during the year or contemplated for the coming year;

d. Building plans for any contemplated construction giving room dimensions and specifications and use.

3. Material to be submitted with application for renewal of provisional or conditional license. A statement showing which initial requirements listed as conditions of the provisional or conditional license have been met and if unmet, a statement of the plan of meeting them, together with any other material required under subdivision D 2 of this section which may be due.

4. Health and fire inspections. At the time that the renewal application is sent to the licensee, the department will request an inspection and report as to the sanitary conditions of the child caring institution from the local

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health department. In order to determine fire safety conditions, the department will request an inspection and report from the local fire department or other officials responsible for fire safety.

5. A current report from the State Fire Marshal will be requested if the previous report indicated violations of the Virginia Fire Safety Regulations.

6. Notice to the applicant of commissioner's action. The same procedure will be followed with renewal applications as outlined under subdivision D 6 of this section.

F. Modification of license. The conditions of the license may be modified during the licensing year with respect to the number of children, the age range, or other conditions in accordance with changes in sponsorship, staff, program, or facilities.

A licensee shall report to the department any contemplated changes in operation which would affect either the terms of the license or the continuing eligibility for a license. The department will then determine whether such changes may be approved and the license modified accordingly. This does not mean that the department has to approve changes in staff or program unless they affect the terms of the license or the continuing eligibility. Plans for remodeling or construction of new buildings shall be presented to the department and to the State Fire Marshal's office for review before the work is undertaken.

22 VAC 40-100-50

22 VAC 40-100-50. Governing board.

Each child caring institution sponsored by a corporation shall be governed and controlled by a governing board.

1. The governing board shall meet not less than quarterly.

2. The governing board shall be made up of no less than three members, a president, secretary-treasurer, and a member-at-large with additional membership according to size and function of the institution. It shall be large enough to be representative of a variety of interests and experience and the geographical area which it serves without being too large for smooth functioning.

3. The responsibility of the governing board shall be as follows:

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- a. To establish policies under which the institution is to operate;
- b. To assure that the institution functions according to its defined purpose and that the program is conducted in conformity with official regulations and standards;
- c. To maintain a budgeting and financing system whereby sound financial structure is maintained.

4. The governing board shall delegate administrative responsibility within established policies to the executive for the administration of the institution's program.

5. Membership shall be elected in accordance with bylaws and accepted practice.

22 VAC 40-100-60

22 VAC 40-100-60. Finances.

A. The institution shall have a plan of financing which gives assurances of sufficient funds to enable it to carry out its defined purposes and provide adequate care for children. The initial application shall give evidence that there are sufficient funds to assure the first year of operation.

B. The institution shall annually, together with the application for license renewal, submit evidence of financial responsibility which shall include an annual financial statement. Such statement shall reflect the current fiscal condition of the institution and shall include its working budget.

C. The institution shall have adequate liability and fire insurance in force. A copy of the insurance policy shall be made available to the Commissioner's representative upon request.

22 VAC 40-100-70

22 VAC 40-100-70. Relationship to licensing authority.

A. Child caring institutions shall submit to the Department of Social Services such periodic and special reports as it may require, including service, financial, personnel, statistical information, and a periodic census of children under care. A schedule of fees shall be filed with the State Department of Social Services.

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B. The institution's records shall be made available to the department representative upon request.

C. The governing board or an official representative of the institution shall notify the department of any major changes pending or occurring in the administration or in the administrative personnel of the institution.

22 VAC 40-100-80

22 VAC 40-100-80. General requirements.

A. No institution shall hire personnel whose health, education achievements, emotional or psychological makeup impairs his ability to properly protect the health and safety of the children or is such that it would endanger the physical or psychological well-being of the children.

B. Each employee shall be qualified by age, health, education, and training and experience for the position he is to fill and shall have in addition qualities of character and temperament suitable for working with children.

C. Health information shall be maintained for the licensee or administrator for all staff members who come in contact with children or handle food.

1. Initial tuberculosis examination and report.

a. Within 30 days of employment or contact with children, each staff member shall obtain an evaluation indicating the absence of tuberculosis in a communicable form.

b. Each staff member shall submit a statement that he/she is free of tuberculosis in a communicable form, including the type or types of test or tests used and the result or results.

c. The statement shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

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d. This statement shall be filed in the staff member's record.

2. Subsequent evaluations:

a. A staff member who had a significant (positive) reaction to a tuberculin skin test and whose physician certifies the absence of communicable tuberculosis must obtain chest x-rays on an annual basis for the following two years.

(1) The staff member shall submit statements documenting the chest x-rays and certifying freedom from tuberculosis in a communicable form.

(2) The statements shall be signed by a licensed physician, the physician's designee, or an official of a local health department.

(3) The statements shall be filed in the staff member's record.

(4) Screening beyond two years is not required unless there is known contact with a case of tuberculosis or development of chronic respiratory symptoms.

b. Additional screening is not required for a staff member who had a nonsignificant (negative) reaction to an initial tuberculin skin test.

c. Any staff member who comes in contact with a known case of tuberculosis or who develops chronic respiratory symptoms shall, within 30 days of exposure/development, receive an evaluation in accord with subdivision C 1 of this section.

D. At the request of the licensee or administrator of the facility or the Department of Social Services, a report of examination by a licensed physician shall be obtained when there are indications that the safety of children in care may be jeopardized by the physical or mental health of a specific individual.

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E. Any individual who, upon examination or as a result of tests, shows indication of a physical or mental condition which may jeopardize the safety of children in care or which would prevent performance of duties:

1. Shall immediately be removed from contact with children and food served to children; and
2. Shall not be allowed contact with children or food served to children until the condition is cleared to the satisfaction of the examining physician as evidenced by a signed statement from the physician.

22 VAC 40-100-90

22 VAC 40-100-90. Composition and qualifications of staff.

A. [FN*]Executive Director

1. Each institution shall have a competent executive responsible for the administration of the institution's policies and program. He shall designate a staff member to serve as his assistant, who shall be capable of assuming the administrative affairs of the institution during temporary absence of the administrator.

2. An administrator appointed after the effective date of this chapter shall have:

a. A master's degree from an accredited college or university in a profession related to child care and development; or

b. He shall have received a bachelor's degree from an accredited college and shall have had two years of successful work experience with children in the field of institutional management, social work, education, religious education or other allied profession.

B. [FN*]Assistant director.

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1. The employment of an assistant director will depend upon the size of the institution.

2. Where such a position exists, this person shall have the following qualifications:
 - a. He shall be able to assist in planning and administering the daily program of child care, including routines, household management, and general activities.

 - b. If employment begins after the effective date of this chapter, the assistant to the executive shall have:
 - (1) A bachelor's degree from an accredited college or university in social work, education, religious education, or other allied profession; or

 - (2) He shall have successfully completed two years of college training from an accredited college or university in an allied field plus four years of experience.

C. Child care staff.

1. Each child shall be assigned to the care of an adult. Said person shall provide parental guidance and shall be responsible for assuring the care and well-being of the children. Such persons shall be hereafter called group parents.

2. No person over the age of 65 years may act as a group parent if duties require 24-hour responsibility. If such person whose mental and physical condition render him incapable of performing as a group parent in such capacity before he becomes 65 years of age, he shall be removed immediately.

D. Relief staff.

1. Relief personnel shall be a part of the child care staff, familiar to the children and familiar to the program of

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the institution.

2. They shall meet the qualifications required of regular staff.

3. Sufficient relief staff shall be employed to allow regular time off and vacations for all employees as stipulated in the personnel policies of the institution.

E. Social service staff.

1. Social work services, if not provided by the director, shall be provided by persons possessing qualifications as provided in subdivision E 4 of this section who may be staff members or whose services may be provided on a contract basis.

2. Social work supervisors: Larger institutions with a staff sufficient to justify the employment of a social work supervisor shall employ a social worker with the following qualifications if he is employed after the effective date of this chapter:

a. He shall have a master's degree from a school of social work accredited by the Council on Social Work Education; or

b. He shall have successfully completed one year of graduate study in an accredited school of social work plus two years of social work experience.

3. Institutions providing their own social work services and serving children with special needs resulting from physical, emotional, or mental handicaps, experimentation with drugs or alcohol prior to admission, shall employ a social worker with the same qualifications as a social work supervisor.

4. Social worker.

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a. Each social worker employed by a child caring institution shall have an understanding of and a capacity for working with children. He shall be able to respect and work cooperatively with a variety of persons including co-workers, representatives of other social agencies, and the parents of children.

b. If employment begins after the effective date of this chapter, the caseworker shall be:

(1) A graduate of an accredited college or university with a master's degree in Social Work; or

(2) He shall have a master's degree from an accredited college or university in a related field such as psychology, sociology, or education; or

(3) He shall have a baccalaureate degree in a related social science from an accredited college or university, plus two years of experience in social work; or

(4) He shall have graduated from an accredited college or university with a baccalaureate degree and a major, sequence or concentration in undergraduate preparation for social welfare, including field experience. A year of social work experience may be submitted for the required sequence, concentration or major but not for a baccalaureate degree.

F. Nursing staff.

1. A nurse shall be employed on a full-time or part-time basis where size and location of the institution inhibit the reasonable accessibility of medical services.

2. If nurses are employed by the institution, they shall be currently licensed as a registered nurse or a licensed practical nurse by the Commonwealth of Virginia.

3. Institutions shall have at least one staff member on duty at all times who has taken the Red Cross Standard First Aid Course.

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G. Consultants. Each institution shall make provision for medical, dental, psychiatric, psychological, and legal services as may be necessary to meet adequately the needs of the children served.

H. Clerical staff.

1. The institution shall have sufficient clerical staff to keep necessary correspondence, required records, bookkeeping, and files current and in good order.

2. The clerical staff shall have high school or business training or appropriate business, office, and stenographic experience, or both.

3. Clerical staff shall have a good understanding and respect for confidentiality and a working knowledge of the program of the institution.

I. Recreation staff.

1. The employment of a recreation worker shall depend upon the availability and accessibility of community recreational facilities to the children in the institution.

2. A person employed as a recreation worker by the institution shall have experience in working with and providing responsible supervision to groups of children whose recreational needs and interests vary.

3. The recreation worker shall possess a variety of skills in group activities and shall be capable of motivating children to participate in constructive activities.

J. Volunteer staff.

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1. Volunteers shall have qualifications appropriate to the services they render. They shall be selected on the basis of their ability to make a positive contribution to the program and shall understand and practice confidentiality.
2. The institution shall establish requirements for the selection of volunteers and the institution and the individual volunteer shall agree on the latter's job assignment. The volunteer's responsibility shall be clearly differentiated from other staff members.
3. An employed staff member shall be in charge of the volunteer program including a planned orientation to the work of the institution.

K. Service personnel.

1. Kitchen staff.

a. [FN*]The responsibility for the preparation of meals must be carried specifically by a person employed as a cook or by some other staff member whose responsibilities in the preparation and serving of food will not interfere with the supervision of children.

b. Individuals responsible for the preparation of meals shall have experience or knowledge, or both, of quantity cooking and the nutritional requirements appropriate to the ages of the children served.

c. They shall meet the same general requirements with respect to health and character as child care staff in accordance with the standards established herein.

d. [Deleted effective May 1, 1984.]

e. [Deleted effective May 1, 1984.]

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2. Housekeeping and maintenance staff.

a. [FN*]Housekeeping and maintenance staff shall be selected for their personal qualities as well as skill in their particular jobs, since all adults in the institution are involved to some degree in relationships with children.

b. There shall be sufficient staff so that the operation and maintenance of the institution shall not be dependent upon the children or the child care staff when such duties interfere with their supervisory responsibilities and other child care duties.

[FN*]

Asterisks (*) denote standards which do not apply to group homes.

22 VAC 40-100-100

22 VAC 40-100-100. Ratio of child care staff to children.

A. The staff-child ratio shall vary according to the ages of the children and the kinds of problems they present.

B. In determining the ratio of staff to children, the clerical workers, maintenance staff, and others who have no direct responsibility for children, must not be included.

C. The ratio of full-time staff carrying responsibility for the supervision of children shall be one adult for every 10 children over two years of age except where the needs of the children may warrant a higher or lower ratio. A minimum of one staff shall be on duty at night in each cottage or building where children sleep.

D. Except where necessary to prevent the separation of a family, an institution serving older children will not offer care to infants under two years of age. In instances where care is offered to children under two years of age, the ratio shall be one adult for every three infants.

22 VAC 40-100-110

22 VAC 40-100-110. Personnel policies.

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A. The institution shall have a written statement of personnel policies approved by the governing board of the agency outlining personnel practices as they affect both employer and employee which shall be given to the employee at the time of employment and shall include:

1. A description of his position which defines the qualifications, duties, and responsibilities of the position;
2. Salary;
3. Provisions for paid vacation, sick leave, and policy regarding national holidays observed in the institution;
4. Provisions for periodic evaluations of work performance;
5. A description of employment benefits, including retirement plan, hospitalization and other insurance, room and board; and
6. Resources for staff development.

B. The institution shall maintain an accurate personnel record on each employee which shall include:

1. Written application showing qualifications and experience;
2. Medical reports (see 22 VAC 40-100-80 C and D); and
3. Dates of employment and separation with reason for separation.

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C. Every staff member who has direct 24-hour supervisory contact with children must have available at least four days off duty each month and a minimum of two hours of free time each day.

22 VAC 40-100-120

22 VAC 40-100-120. Location.

Child caring institutions and group homes shall be located so that they are reasonably accessible to schools, transportation, hospitals, clinics, psychiatric resources, churches, libraries, and recreational-cultural facilities.

22 VAC 40-100-130

22 VAC 40-100-130. Buildings and building plans.

A. All existing facilities and plans for the construction, conversion, and modification of any facility shall be such as to reasonably protect the children to be served in the facility and shall include consideration of the following:

1. The number and age span of the children;
2. The location and housing of staff relative to the children;
3. The accessibility of other service facilities or components;
4. The mental or physical condition of the children to be served;
5. Compliance with all health and safety laws and regulations; and
6. The providing of an environment conducive to the proper development of the child.

B. Building plans and specifications for new construction, conversion of existing buildings, and any structural modifications or additions to existing licensed buildings shall be suitably aligned with the purpose of the institution, and plans shall be submitted to the following authorities:

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1. Department of Social Services;
2. Office of the State Fire Marshal (only for structures with occupancy of 10; or more persons except in the cities of Richmond and Norfolk for structures with an occupancy of 20 or more persons);
3. Local zoning or building departments, or both
4. Local fire departments; and
5. Local health departments.

22 VAC 40-100-140

22 VAC 40-100-140. Buildings (physical facilities).

A. Fire regulations.

1. State fire regulations: Buildings which fall within the definition of a public building under Virginia Fire Safety Regulations (13 VAC 5-40-10 et seq.) shall be approved by the State Fire Marshal's office prior to the effective date of licensure. The building shall, at all times, maintain the standards established under the Virginia State Fire Safety Regulations (13 VAC 5-40-10 et seq.). Licensure is contingent upon continued approval by the Office of the State Fire Marshal.
2. Local fire regulations: All buildings shall be approved by local fire authorities where responsibility for such approval is defined at the time of application and annually thereafter.
3. Fire plan: A fire plan shall be worked out for each home. Wherever possible, this plan should be drawn up with the advice of the nearest local fire department or the local fire prevention bureau. The administrator and all employees shall be fully informed of the fire plan for the institution, including their duties, location and operation of fire extinguishers, fire alarm boxes, and telephone procedure in calling the fire department.

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4. Fire drills: Drills for evacuation in case of fire shall be held not less than quarterly.

B. Health inspection: Buildings shall be subject to annual inspections and ratings by such health authorities who are required to inspect and enforce health and sanitary regulations. The health inspection shall include a report on the following:

1. General cleanliness and freedom from rubbish and vermin;

2. Facilities for preparation, refrigeration, and preservation of food;

3. Facilities for sewage disposal;

4. Provision for garbage disposal;

5. Equipment for sterilizing and washing dishes and cooking utensils;

6. Laundry equipment;

7. Water supply, drinking fountains, etc.;

8. Milk supply and handling;

9. When the institution has its own dairy, the herd must be tested for tuberculosis and Bangs disease by the Virginia Department of Agriculture and Consumer Services, Division of Veterinary and Laboratory Services at appropriate intervals.

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C. Sleeping accommodations.

1. The environment of sleeping rooms shall be conducive to sleep and rest.
2. Provisions shall be made for an individual bed or crib for each child and for at least 500 cubic feet of air space per child or 700 cubic feet of air space in a room designed for only one child.
3. There shall be enough space in the room for beds to be at least three feet apart at the head, foot, and sides and four feet apart for double-decker beds.

D. Bath and toilet facilities.

1. Appropriate bathing and toilet facilities shall be provided in accordance with the ages and sexes of the children in care.
2. There shall be at least one shower or tub and one toilet and washbowl for every eight children; but in all instances there shall be at least one toilet and one tub in each children's living unit. (The tub may be in houseparents' quarters for use in case of medical treatment.) A plentiful supply of hot and cold water shall be available for bathing. Showers and tubs shall have mixing faucets.
3. Individual towels and washcloths shall be provided at least twice a week.
4. [FN*] Facilities constructed after the effective date of this chapter shall have a lavatory (with mirror) provided for every four children. Each child shall have a place to keep his individually identifiable toothbrush.
5. [FN*] Facilities constructed after the effective date of this chapter shall have one toilet for every four children with regard for the privacy of each child.

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E. Indoor recreation space: A family oriented (or living) room shall be provided in each living unit housing children. Its furnishings shall be in keeping with its function as the center of indoor recreation. Other space and equipment shall be provided for times when it is necessary for all the children to play indoors. Equipment shall be suited to the age and interest levels of the children.

F. Laundry and sewing: If laundry and sewing are done on location, such space shall be provided and conveniently located and have adequate equipment. Equipment shall be in good repair and have protective safety devices. All electrical equipment shall meet the National Electric Code and be approved by Underwriters Laboratory.

G. Heating system: Heating facilities shall conform to the recommendations of competent mechanical engineers. All heating systems shall be installed with safety devices to prevent fires, explosions, and other hazards including covered radiators where young children are being cared for. Systems shall also meet local building codes. All parts of the living units used by the children shall be adequately heated. The heat shall be evenly distributed at a temperature of between 68°F and 72°F to be maintained in all the rooms the children occupy at any time.

H. Lighting: Proper lighting shall be provided and comply with the local fire and electrical wiring regulations. Emergency lighting facilities shall be provided and available at all times. Outside lighting shall be provided for protection against injuries and intruders.

I. Medical provisions.

1. [FN*] Institutions with a licensed capacity of over 50 children and which do not have easy access to a hospital, shall provide facilities for segregation of children suffering from contagious or communicable diseases.

2. First aid supplies shall be readily available when needed. All first aid supplies shall be stored in a locked cabinet not accessible to children.

3. No medical treatment program or system of medications shall be started or continued without a written order signed by a licensed physician.

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4. Drugs shall be obtained only upon individual prescription of a licensed physician and obtained from a licensed pharmacist. Such drugs shall be securely locked and accessible only to a responsible person in charge. A record shall be kept of all medications administered to each child.

[FN*]

Asterisks (*) denote standards which do not apply to group homes.

22 VAC 40-100-150

22 VAC 40-100-150. Staff quarters.

For facilities initially licensed after January, 1973, each living unit shall have at least one room with beds and private bath reserved for use of staff when on duty and sleeping in. If full-time staff reside in the children's living unit, they must be provided with a living room, bedroom, and bath.

EXCEPTION: When there are no more than four persons, including staff and family of staff, residing in or on duty in the living unit, or both, a private living room and a private bath are not required for staff.

22 VAC 40-100-160

22 VAC 40-100-160. Equipment.

A. All furnishings shall be attractive, safe, easy to clean, and suited to the ages and number of children in care.

B. There shall be at least one private telephone line into each child caring institution and a telephone shall be located in every children's living unit. There shall be someone available to answer the phone at all times.

C. All playground equipment shall be safe, clean, and durable and selected for suitability to the age and stage of development of the children under care.

D. Swimming pools shall be enclosed with safety fences and shall conform to local health and safety regulations.

E. The institution shall provide vehicles for the transportation of children and staff in their work with the children. Such vehicles shall include all safety devices required by law.

22 VAC 40-100-170

22 VAC 40-100-170. Grounds and outdoor recreation space.

Official Virginia Administrative Code, current through 30:19 VA.R. May 19, 2014, and fast-track regulations current through 30:14 April 24, 2014.

The grounds shall be spacious enough to accommodate a variety of play areas that take into consideration age and interest levels of the children. Community recreational resources, if suitable, shall be utilized as much as possible. Grounds shall be suitably landscaped.

22 VAC 40-100-180

22 VAC 40-100-180. Request for service (intake) and alternative planning (discharge) of children.

Policies regarding the above shall be defined and periodically reviewed and changed as needs and conditions dictate.

1. No child shall be accepted for care until it is clearly established that he needs care apart from his family and is in need of the particular kind of care which the institution has to offer. This must be determined through mutual exploration involving all parties concerned with the child's welfare.

2. Acceptance for care shall be based upon:

a. Social data;

Full name of child;

Date and place of birth;

Sex of child;

Name and addresses of parents and their marital status;

Names, ages, and sex of siblings with addresses when possible;

Religion of parents;

Racial and national background; and

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Custody status;

b. Medical history and current medical condition;

c. The child's approximate mental level, as determined by the grade ratio or a statement of a physician or psychologist or both;

d. Significant information to show why the child requires care apart from his family must be established.

3. On the basis of this study, an institution shall not admit:

a. A child whose needs it cannot meet. In determining whether the child's needs may be met, the following are some factors to be considered:

(1) Availability of educational facilities suitable to the child's needs;

(2) The age group of children presently in the institution relative to the age of the applicant;

(3) The mental, physical, or emotional condition of the other children in the institution relative to that of the applicant;

(4) The child's health needs relative to the capabilities of the institution to supply such needs;

(5) The lack of trained professional staff necessary to provide the child with maintenance, care, or treatment required by his physical, mental, or emotional condition.

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b. A child whose presence would be undesirable or dangerous to other children in the institution. This should not be interpreted to exclude children who merely have behavior difficulties of a comparatively mild nature, but children whose health or behavior is such that association with them would be seriously detrimental to normal children.

4. Children shall be accepted only by court commitment or on written agreement with parents, legal guardian, or other person having legal authority to make such an agreement.

5. There shall be an entrustment between the child's parents or guardian and the institution through which written consent for the child's placement in the institution is given and a basis of cooperation between parent and administration is established. This shall not be interpreted to mean that the parent shall surrender all legal right to the child to the institution. Parental surrender shall not be required under usual circumstances.

6. Agreement forms shall be devised by the institution and shall recognize the mutual rights of the parties in placement, clearly defining areas of joint responsibility as they affect the institution's ability to serve or continue serving a child. Such forms shall be approved by the State Department of Social Services.

7. Both the institution and the parties to placement shall have a copy of the agreement.

8. An institution receiving children under emergency circumstances shall have staff and special facilities for reception, including if necessary, temporary isolation from other children in residence.

9. Institutions equipped to handle temporary placements shall emphasize the temporary nature of such placements in their written agreements with referring persons or agencies.

10. Satisfactory effort must be devoted to preparing the child for admission to the institution. It is essential that careful attention be given the child during the first two or three weeks in order that the initial adjustment may be as favorable as possible.

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a. Preparation of a child for his admission shall be in a manner consistent with his age and ability to participate in the plan and to understand the reasons for the placement.

b. Whenever possible and feasible to do so, arrangements shall be made for the child to make at least one pre-placement visit to the institution. If a pre-placement visit is not possible or feasible, the child shall be given some detailed description or picture of the institution, staff, children, and activities that will be part of his daily living.

c. Timing of the child's admission shall be so planned that it will be least distressing to him and least disrupting to the staff and other children who will be sharing the same living unit.

11. Residence within the institution shall be considered continuous preparation for the time when the child no longer needs care therein.

a. Adequate attention shall be given to preparing the child for leaving the institution as the time therefore approaches.

b. Children under 18 years of age may be discharged only to the responsible person from whom they were accepted, except in cases where the legal responsibility for the child has been transferred from one person to another during the period of the child's stay in the institution. Discharge shall be to and with the planning of the responsible person, or upon order of a court of competent jurisdiction.

22 VAC 40-100-190

22 VAC 40-100-190. Placement of children outside the institution.

A. No institution may make placements of a child away from the institution except for medical or surgical care, attendance at an accredited public or private school, or vacations without first having obtained a Child Placing Agency license.

B. Such placements shall not be made without the knowledge and consent of the individual or individuals or agency legally responsible for the child.

22 VAC 40-100-200

22 VAC 40-100-200. Health.

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A. Timing and frequency of physical examinations

1. Each child accepted for care shall have a physical examination by or under the direction of a licensed physician no earlier than 90 days prior to placement in the facility.

EXCEPTIONS: a. If a child transfers from one residential facility licensed or certified by a state agency to another, the report of an examination within the preceding 12 months shall be acceptable.

b. If a child is admitted on an emergency basis and a report of physical examination is unavailable, a physical examination shall be conducted within 30 days after placement. (See 22 VAC 40-100-180 8.)

2. Following the initial examination, each child shall have a physical examination annually.

3. Additional or follow-up examinations and treatment shall be required when:

a. Prescribed by the examining physician, or

b. Symptoms indicate the need for an examination or treatment by a physician.

B. Required content of physical examinations.

1. Each report of physical examination shall include:

a. The date of the physical examination; and

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b. The signature of a licensed physician, the physician's designee, or an official of a local health department.

2. Each examination report shall include information concerning: blue and green

a. Immunizations administered;

b. Visual acuity;

c. Auditory acuity;

d. General physical condition, including documentation of apparent freedom from communicable diseases, including tuberculosis;

e. Allergies, chronic conditions, and handicaps, if any;

f. Nutritional requirements, including special diets, if any;

g. Restriction of physical activities, if any; and

h. Recommendations for further treatment, immunizations, and other examinations indicated.

3. When it is not in the best interest of a child with a communicable disease to prohibit admission, the child may be admitted only after a licensed physician certifies that:

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a. The facility is capable of providing care to the child without jeopardizing other children in care and staff; and

b. The facility is aware of the required treatment for the child and procedures to protect other children in care and staff.

C. Responsibility for Health Program

1. It is the responsibility of the institution to maintain and promote the health of children for whom it assumes responsibility. The health program shall be under the continuing technical direction of a physician.

2. The nutrition of the children is a vital aspect of the total health program. Planning, preparation, and serving of food shall be in accordance with nutritional, social, and environmental sanitation needs of the children. Menus shall be available upon request by the commissioner's representative.

3. A positive attitude toward good health and oral and dental hygiene shall be promoted. Standards of hygiene in relation to bathing, appropriate handwashing, and toothbrushing shall be maintained.

D. Annual dental inspection with recommendations for follow-up dental care as indicated.

22 VAC 40-100-210

22 VAC 40-100-210. Education.

A. The institution shall arrange for the education of each child in care. The education shall be in compliance with state or local laws, or both, pertaining to compulsory school attendance.

B. Where academic educational facilities are operated by the institution, the following requirements must be met:

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1. If teachers are employed by the institution, they must hold a Virginia Teacher's Certificate and must be eligible for employment in the public school system and shall be required to teach only those areas and subjects for which they are certified;

2. Teachers shall be chosen on the basis of their qualifications and their ability to work with children, and shall have the ability to work cooperatively with other institutional staff in meeting the needs of the children served.

C. The institution shall give consideration to providing vocational training according to the child's ability.

1. If teachers are employed by the institution, they must hold a Virginia Industrial and Education Certificate and must be eligible for employment in the public school system and shall teach only those subjects for which they are certified.

2. Teachers shall be chosen on the basis of their qualifications and their ability to work with children and shall have the ability to work cooperatively with other institutional staff in meeting the total needs of children served.

D. The institution shall give consideration to providing the opportunity for higher education according to the child's ability.

22 VAC 40-100-220

22 VAC 40-100-220. Religious training.

A. The institution shall be responsible for providing religious education and experience. Children shall be taught to respect the practices of different faiths and to accept the right to different forms of worship.

B. Each institution shall have clearly defined policies regarding religious training for the information of those considering the placement of children in the institution.

C. Children shall be encouraged to participate in religious activities, but shall not be coerced.

22 VAC 40-100-230

22 VAC 40-100-230. Recreation.

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A. Each institution shall provide individual and group recreational opportunities appropriate to the age, interests, and needs of each child. Individual initiative and creativity shall be encouraged.

B. Competent adult direction and supervision of the recreational program shall be provided both indoors and outdoors. This shall include use of any open body of water.

C. The recreational program of the institution shall include maximum use of available community recreational resources and facilities.

D. The institution shall provide suitable space and appropriate equipment for both indoor and outdoor recreation

22 VAC 40-100-240

22 VAC 40-100-240. Community relationships.

A. The child, under staff supervision, shall be given opportunities to take part in community life when he has gained sufficient security in the group living situation.

B. Children shall be encouraged to become acquainted with and develop appreciation for the cultural and educational resources of the community, such as places of historical interest, museums, art galleries, etc.

C. Community participation shall also be furthered by allowing older children who can do so to accept employment in the community, either in paid or volunteer jobs, not only to earn spending money, but also to become a part of the everyday working community.

D. Community interest in children and efforts in their behalf (public parties, entertainment, invitations to visit families) shall be carefully evaluated to ascertain that these are in the best interest of the children.

22 VAC 40-100-250

22 VAC 40-100-250. Use of volunteers.

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A. Volunteers shall be used to enrich the program by bringing to it specialized skills and interests not otherwise available to the children through staff and to offer opportunities for relationships and individualized attention.

B. To limit disruption to the program of the institution and disappointment of children, staff member in charge of volunteers shall determine during early stage of involvement whether the volunteer demonstrates dependability for a particular assignment.

C. Turnover of volunteers shall be kept to a minimum.

22 VAC 40-100-260

22 VAC 40-100-260. Social work services.

A. Social work services shall be the function of the social work staff either employed or contracted and shall include:

1. Regular contacts with the child and his parents or guardian to help them maintain their relationships with the child and plan for his future care;
2. A review of each child's status, progress, and family situation at least semiannually and more frequently as needed for the purpose of evaluating the need for continuing care in the institution or a different form of care;
3. Help for the child with problems that affect his ability to have satisfying personal relationships and use of his capacity for growth;
4. Conferences with child care staff, providing sufficient information about the child and his family situation so that they may understand the child's needs and help him to his adjustment to group living;
5. Appropriate referrals to and maintenance of continuing relationships with community resources and services needed by the children and their parents;

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6. Close work with the child and child placing agency with whom placement outside the institution is being considered.

B. Periodic conferences shall be held with child placing agencies holding custody of children in care.

22 VAC 40-100-270

22 VAC 40-100-270. Clothing.

A. Children shall be provided with adequate, comfortable, and well-fitting clothes, appropriate in style to those generally worn by children of their age in the community.

B. Each child shall have clothing exclusively for his own use.

C. Children shall be permitted to participate in the selection and purchase of their own clothing whenever possible and appropriate.

D. Institutions shall consider the use of cash clothing budget plans for each child, particularly for adolescents.

E. Clothing shall be individually inventoried and currently reviewed to check for repairs and replacement. The results of such inventories shall be reported promptly to the proper administrative staff person.

F. When the child leaves the institution, he shall be allowed to take his clothing with him.

22 VAC 40-100-280

22 VAC 40-100-280. Allowances.

A. The institution must provide opportunities for children to learn the value and use of money through earning, spending, giving and saving.

B. Every child shall be assured an allowance appropriate to his age. The allowance shall be regular and in an amount known to the child.

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C. Children, depending upon their age, shall be able to spend designated portions of their money without accounting to staff.

D. Children who earn money shall be helped to budget their own money.

22 VAC 40-100-290

22 VAC 40-100-290. Discipline.

A. Different approaches are required for different kinds of children and groups.

B. A clear differentiation shall be made between rights and privileges of children.

C. Punishment, control, and discipline of children shall be an adult responsibility.

D. Punishment shall be related to the specific misbehavior. Excessive, degrading, or vindictive punishment is prohibited.

E. Institutions shall not allow deprivation of meals, or prohibit mail and family visits as a method of punishment.

F. Physical punishment or isolation, or both, of a child shall require the approval of the administrator or his designee. In all instances, the administrator shall be notified of the child's physical punishment or isolation, or both. At any time a child is confined to his quarters, he shall not be without means of communicating with staff.

22 VAC 40-100-300

22 VAC 40-100-300. Visitation.

A. Parents and other individuals important to the child shall have the right to reasonable visiting privileges according to the formulated plan.

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B. Visiting hours shall be flexible in order to meet the needs of children in placement and their parents.

VA ADC T. 22, Agcy. 40, Ch. 100, Pt. VI, Refs & Annos

22 VAC 40-100-310

22 VAC 40-100-310. Nature of records.

A separate up-to- date case record shall be maintained on each child from the point of intake to the termination of service.

22 VAC 40-100-320

22 VAC 40-100-320. Location.

A defined place shall be provided for making and keeping records of a privileged and confidential nature.

22 VAC 40-100-330

22 VAC 40-100-330. Safeguards.

Safeguards must be taken to protect case record material from fire and other hazards.

1. Records must be stored in a locked, fire-resistant file or vault.

2. Records must not be accessible to unauthorized persons.

22 VAC 40-100-340

22 VAC 40-100-340. Confidentiality.

The child caring institution shall share only that information relative to the needs of others working with the child or to those having a legal right to that information in conformity with § 63.1-209, Code of Virginia, which provides:

(a) "Confidential records. The records of all child welfare agencies and representatives of the Commissioner regarding licensing and persons received or placed out by them and the facts learned by them concerning such persons and their parents or relatives shall be confidential information, provided that the Commissioner, the State Board, and their agents shall have access to such information, that it shall be disclosed upon proper order of any court, and that it may be disclosed to any person having a legitimate interest in the placement of any such person. It

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shall be unlawful for any officer, agent, or employee of any child welfare agency, for the Commissioner, the State Board, or their agents or employees, and for any person who has held any such position, and for any other person to whom any such information is disclosed as herein above provided, to disclose, directly or indirectly, any such confidential information, except as herein provided. Every violation of this section shall constitute a misdemeanor and be punishable as such.

(b) Any person who has attained his majority, and who has not been legally adopted in accordance with the provisions of Chapter 11 (§ 63.1-220 et seq.) of this title, and who believes that he has been placed out by a child placing agency, shall have the right to demand and receive from the Commissioner, the State Board, or any such agency, such information as any of them may have concerning his own parents or relatives.”

22 VAC 40-100-350

22 VAC 40-100-350. Form and content of case record.

A. In addition to the data required and the intake study, the record shall include a formal request for care or application and/or a copy of court commitment and/or entrustment agreement which shall include financial responsibility, consent for necessary medical and surgical treatment and hospitalization. An entrustment shall only be entered into after it has been determined that the placing person has legal authority to do so.

B. A record shall be kept of on-going medical information on the child which shall include:

1. Immunizations;
2. Dental examinations;
3. Reports of any illness or injury and treatment given;
4. Psychiatric examinations and treatment given, if any;
5. Use of drugs;

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6. Routine physical examinations and other medical contacts.

C. The record shall include a summary of the child's progress. Where long term care is offered, these reports shall be recorded at least annually and shall include the following:

1. Reports of significant incidents, both positive and negative, and changes in the family situation;
2. Contact with parents;
3. School reports;
4. Future planning;
5. Summary of child's development.

D. All correspondence relevant to a child shall be kept in the record.

E. Each record shall have a face sheet bearing factual data and identifying information. The face sheet shall include the following:

1. Name;
2. Date and place of birth;

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3. Sex;
4. Religion;
5. Race;
6. Names and addresses of parents, siblings, and other close relatives;
7. Guardianship and custody;
8. Date of admission;
9. Insurance policy numbers, Medicaid number; and
10. Name of caseworker and casework supervisor, if an agency placement.