

Virginia Administrative Code

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CHAPTER 190

REGULATIONS FOR VOLUNTARY ADMISSIONS TO STATE TRAINING CENTERS

12VAC35-190-10. Definitions.

The following words and terms when used in this chapter shall have the following meanings unless the context clearly indicates otherwise:

"Admission" means acceptance of an individual in a training center.

"Authorized representative" means a person permitted by law or regulation to authorize the disclosure of information or consent to treatment and services, including medical treatment, or the participation in human research on behalf of an individual who lacks the mental capacity to make these decisions.

"Commissioner" means the Commissioner of the Department of Behavioral Health and Developmental Services.

"Community services board" or "CSB" means the public body established pursuant to § 37.2-501 of the Code of Virginia. For the purpose of these regulations, CSB also includes a behavioral health authority established pursuant to § 37.2-602 of the Code of Virginia.

"Discharge plan" means a written plan prepared by the CSB providing case management in consultation with the training center pursuant to §§ 37.2-505 and 37.2-837 of the Code of Virginia. This plan is prepared when the individual is admitted to the training center and documents the services to be provided upon discharge.

"Guardian" means:

For Minors -- an adult who is either appointed by the court as a legal guardian of a minor or exercises the rights and responsibilities of legal custody by delegation

from a biological or adoptive parent, upon provisional adoption or otherwise by operation of law.

For Adults -- a person appointed by the court who is responsible for the personal affairs of an incapacitated adult under the order of appointment. The responsibilities may include making decisions regarding the individual's support, care, health, safety, habilitation, education and therapeutic treatment. Refer to definition of "incapacitated person" at § 37.2-1000 of the Code of Virginia.

"Licensed professional" means a licensed psychologist, licensed professional counselor, or other individual who holds a valid professional license and has appropriate training in intellectual testing.

"Mental retardation" ("intellectual disability") means a disability originating before the age of 18 years, characterized concurrently by (i) significantly subaverage intellectual functioning as demonstrated by performance on a standardized measure of intellectual functioning, administered in conformity with accepted professional practice, that is at least two standard deviations below the mean; and (ii) significant limitations in adaptive behavior as expressed in conceptual, social, and practical adaptive skills.

"Training center" means a facility operated by the Department of Behavioral Health and Developmental Services for the treatment, training, or habilitation of persons with mental retardation (intellectual disability).

Statutory Authority

§§ 37.2-203 and 37.2-806 of the Code of Virginia.

Historical Notes

Derived from VR470-07-01 § 1, eff. October 8, 1976; amended, Virginia Register Volume 19, Issue 7, eff. January 15, 2003; Volume 25, Issue 23, eff. August 19, 2009.

12VAC35-190-20. [Repealed]

Historical Notes

Derived from VR470-07-01 § 2, eff. October 8, 1976; repealed, Virginia Register Volume 19, Issue 7, eff. January 15, 2003.

12VAC35-190-21. Application for admission.

A. Requests for admission to a training center shall be processed through the CSB. A parent, guardian, or authorized representative seeking admission to a training center for an individual with mental retardation (intellectual disability) shall apply first to the CSB that serves the area where the individual, or if a minor, his parent or guardian is currently residing.

B. If the CSB determines that the services for the individual are not available in the community or the individual chooses to obtain services in the state training center, the CSB shall forward a preadmission screening report, pursuant to § 37.2-806 B of the Code of Virginia, to the training center serving individuals with mental retardation (intellectual disability) from that geographic section of the state in which the individual or, if a minor, his parent or guardian is currently residing.

C. The preadmission screening report shall include at a minimum:

1. An application for services;
2. A medical history indicating the presence of any current medical problems as well as the presence of any known communicable disease. In all cases, the application shall include any currently prescribed medications as well as any known medication allergies;
3. A social history and current housing or living arrangements; and
4. A psychological evaluation that reflects the individual's current functioning.

D. The preadmission screening report shall also include the following, as appropriate:

1. A current individualized education plan for school-aged individuals.
2. A vocational assessment for adults.
3. A completed discharge plan outlining the services to be provided upon discharge and anticipated date of discharge.
4. A statement from the individual, family member, or authorized representative requesting services in the training center.

Statutory Authority

§§ 37.2-203 and 37.2-806 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 19, Issue 7, eff. January 15, 2003; amended, Virginia Register Volume 25, Issue 23, eff. August 19, 2009.

12VAC35-190-30. Criteria for admission.

A. Upon the receipt of a completed preadmission screening report, the director of the training center or designee shall determine eligibility for admission based upon the following criteria:

1. The individual has a diagnosis of mental retardation (intellectual disability);
2. The diagnosis of mental retardation has been made by a licensed professional; and
3. The training center has available space and service capacity to meet the needs of the individual.

B. If the director finds that admission is not appropriate, he shall state the reasons in a written decision and may recommend an alternative location for needed services.

C. Within 10 working days from the receipt of the completed preadmission screening report, the director of the training center or designee shall provide the written decision on the admission request to the CSB.

Statutory Authority

§§ 37.2-203 and 37.2-806 of the Code of Virginia.

Historical Notes

Derived from VR470-07-01 § 3, eff. October 8, 1976; amended, Virginia Register Volume 19, Issue 7, eff. January 15, 2003; Volume 25, Issue 23, eff. August 19, 2009.

12VAC35-190-40. [Repealed]

Historical Notes

Derived from VR470-07-01 § 4, eff. October 8, 1976; repealed, Virginia Register Volume 19, Issue 7, eff. January 15, 2003.

12VAC35-190-41. Requests for reconsideration of the director's determination.

In the event that (i) the CSB making the request for admission, or (ii) the parent, guardian, or authorized representative applying on behalf of an individual disagrees with the determination of the director, either party may request a reconsideration of the determination by submitting a request in writing to the commissioner within 10 working days of receiving such determination. Upon receipt of a request for reconsideration, the commissioner shall notify the training center director and the training center director shall forward the preadmission screening report package and related information to the commissioner within 48 hours. The commissioner shall also provide an opportunity for the individual requesting reconsideration to submit for review any additional information or reasons why the admission should be approved. The commissioner shall render a written decision on the request for reconsideration within 30 calendar days of the receipt

of the request and notify all involved parties. The commissioner's decision shall be binding.

Statutory Authority

§§ 37.2-203 and 37.2-806 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 19, Issue 7, eff. January 15, 2003; amended, Volume 25, Issue 23, eff. August 19, 2009.

12VAC35-190-50. [Repealed]

Historical Notes

Derived from VR470-07-01 § 5, eff. October 8, 1976; repealed, Virginia Register Volume 19, Issue 7, eff. January 15, 2003.

12VAC35-190-51. Judicial certification.

Upon receipt of written notification from the training center director that an individual is eligible for admission, the CSB shall inform the individual and the individual's parent, guardian, or authorized representative of this decision and assist the parent, guardian, or authorized representative in initiating a judicial proceeding pursuant to § 37.2-806 of the Code of Virginia. When the judge has certified that the individual is eligible for admission to a training center in accordance with § 37.2-806 F of the Code of Virginia, a date for admission to the training center shall be established.

Statutory Authority

§§ 37.2-203 and 37.2-806 of the Code of Virginia.

Historical Notes

Derived from Virginia Register Volume 19, Issue 7, eff. January 15, 2003; amended, Virginia Register Volume 25, Issue 23, eff. August 19, 2009.
