

**WEST VIRGINIA
SECRETARY OF STATE
JOE MANCHIN, III
ADMINISTRATIVE LAW DIVISION**

Form #2

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2002 JUN 21 A 11:31

WEST VIRGINIA
SECRETARY OF STATE

NOTICE OF A COMMENT PERIOD ON A PROPOSED RULE

AGENCY: Family Protection Services Board TITLE NUMBER: 191

RULE TYPE: Procedural CITE AUTHORITY: 48-26-401

AMENDMENT TO AN EXISTING RULE: YES NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 1

TITLE OF RULE BEING AMENDED: Operation of the Family Protection
Services Board

IF NO, SERIES NUMBER OF RULE BEING PROPOSED: _____

TITLE OF RULE BEING PROPOSED: _____

IN LIEU OF A PUBLIC HEARING, A COMMENT PERIOD HAS BEEN ESTABLISHED DURING WHICH ANY INTERESTED PERSON MAY SEND COMMENTS CONCERNING THESE PROPOSED RULES. THIS COMMENT PERIOD WILL END ON July 12, 2002 AT 5:00 p.m. ONLY WRITTEN COMMENTS WILL BE ACCEPTED AND ARE TO BE MAILED TO THE FOLLOWING ADDRESS:

Division of Criminal Justice Services

120A Kanawha Blvd., East

Charleston, WV 25301

THE ISSUES TO BE HEARD SHALL BE LIMITED TO THIS PROPOSED RULE.

Trudy Lauenson
Authorized Signature

ATTACH A **BRIEF** SUMMARY OF YOUR PROPOSAL

SCANNED

**Brief Summary of Proposed Revisions to
Legislative Rule Title 191, Series 1
Operation of the Family Protection Services Board**

The proposed revisions to this rule will add uniformity of Board procedures that overlap with Title 191, Series 2 "Domestic Violence Program Licensure," Series 3 "Perpetrator Intervention Program Licensure," and Series 4 "Monitored Visitation and Exchange Center Certification."

Statement of Circumstances Which Require the Rule

§48-26-401 of the West Virginia Code establishes the Family Protection Services Board and the duties of the Board. This rule addresses the operating procedures of the Board.

□
APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title: Operation of the Family Protection Services Board

Type of Rule: Legislative Interpretive Procedural

Agency: Family Protection Services Board

Address: 1204 Kanawha Boulevard, East
Charleston, WV 25301

Contact Person: Beth Morrison
304-727-1906

1. Effect of Proposed rule:

	ANNUAL FISCAL YEAR				
	INCREASE	DECREASE	CURRENT	NEXT	THEREAFTER
ESTIMATED TOTAL COST	0	0	0	0	0
PERSONAL SERVICES					
CURRENT EXPENSE					
REPAIRS & ALTERATIONS					
EQUIPMENT					
OTHER					

2. Explanation of Above Estimates:

No costs necessary to implement this rule.

3. Objectives of These Rules:

To revise operating procedures of the Family Protection Services Board.

Rule Title: Operation of the Family Protection Services Board

4. Explanation of Overall Economic Impact of Proposed Rule:

A. Economic Impact on State Government:

N/A

B. Economic Impact on Political Subdivisions; Specific Industries; Specific Groups of Citizens:

N/A

C. Economic Impact on Citizens/Public at Large.

N/A

Date: June 21, 2002

Signature of Agency Head or Authorized Representative:

Judy Lawrenson

TITLE 191
LEGISLATIVE RULE
FAMILY PROTECTION SERVICES BOARD

FILED

2002 JUN 21 A 11: 31

SERIES 1
OPERATION OF THE FAMILY PROTECTION SERVICES BOARD

WEST VIRGINIA
SECRETARY OF STATE

§191-1-1. General

1.1. Scope - This rule establishes the operating procedures of the Family Protection Services Board.

1.2. Authority - W. Va. Code ~~§48-2C-4(d)~~, 48-26-401(4), ~~48-2C-13~~ 48-26-404, 48-26-1003(a).

1.3. Filing Date

1.4. Effective Date

§191-1-2. Purposes of the Board

2.1. The purposes of the Board are to provide ongoing administration and allocation of the West Virginia Family Protection Funds; to establish and enforce a system of standards for the annual licensure of domestic violence programs and perpetrator intervention programs; to establish and enforce a system of standards for the annual certification monitored visitation and exchange centers; to research and study issues pertinent to programs for victims of domestic violence and report the results to the Governor and the Legislature.

2.2 The Board will operate according to the following:

2.2.a. The Board will meet at least three times each calendar year in the first, second and last quarters. The exact dates, locations and subjects of regular meetings will be established with sufficient lead time for public announcement of meetings. Special and emergency meetings may be called at the discretion of the chair as frequently as necessary to assure the integrity of the Board's funding and licensure responsibilities. Emergency meetings may be called at the discretion of the chair when circumstances arise regarding licensure or the funding of a domestic violence program.

2.2.b. All meetings will be publicly announced in accordance with W. Va. Code §6-9A-3 with notice to the Secretary of State's Office. That notice shall include the time, place and purpose of the meeting. The Board shall, in accordance with state law, hold open meetings except when an executive session is necessary for the discussion of sensitive issues regarding the

issuance, denial, suspension or revocation of a license and Board personnel. This exception will be effective only with a consensus of the Board members present. An open meeting regarding the issuance, denial, suspension or revocation of a license may be held at the request of the agency whose license is in question. If an emergency session is necessary, the Board shall file a notice any time prior to the meeting. Such notice shall state the time, place and purpose of the meeting and the facts and circumstances of the emergency.

2.2.c. Meetings may be held with a quorum of three Board members present.

2.2.d. Officers will include a chair, a vice-chair, and a secretary/treasurer who will be selected on an annual basis. The selection process will be held during the second quarter meeting. Terms of office will begin on July 1 of each year and will end the following June 30. Selection shall be made by a majority of the constituent membership.

2.2.e. Only the chair or the vice-chair may conduct meetings of the Board.

2.2.f. The chair will have the following responsibilities and duties. (1) call and conduct all meetings; (2) plan agendas for meetings; (3) speak as the official voice of the Board with media, the W. Va. Legislature, the West Virginia Coalition Against Domestic Violence, the programs licensed and funded by the Board, the Attorney General's Office, the general public, and with all organizations inquiring about licensure and funding; and (4) supervise the duties of the staff of the Board.

2.2.g. The vice-chair will assume any or all of the responsibilities and duties of the chair in the chair's absence.

2.2.h. The Board shall hire or contract staff to complete the Board's work as necessary. Funds will be allocated for this purpose from the five percent (5%) of funds allowed by law for the cost of administering provisions of ~~§ 48-2C-4(1)~~ 48-26-401(12).

2.2.i. Expenses incurred by Board members while pursuing the work of the Board shall be reimbursed by the funds designated for administrative activities. Board members shall, at all times, comply with the most current State of West Virginia travel regulations. The Board shall supply its members and staff with appropriate forms to request reimbursement. The ex-officio members of the Board who serve by virtue of their positions shall request reimbursement for expenses through their employing agency or appointing committee.

2.2.j. The Board shall advise the Secretary of the Department of Human Services on matters of concern relative to his or her responsibilities under West Virginia Code ~~§ 48-2C-1~~ 48-26-101 et seq. and the Board shall delegate to the commissioner such powers and duties of the Board as the Board may deem appropriate to delegate, including, but not limited to, the authority to approve, disapprove, revoke or suspend licenses.

§191-1-3. Definitions

3.1. "Board" means the Family Protection Services Board created pursuant to West Virginia Code ~~§48-2C-3~~ 48-26-301.

3.2. "Secretary" means the Secretary of the Department of Health and Human Resources.

3.3. "Department" means the Department of Health and Human Resources or any successor agency however so named.

3.4. "Family Protection Program" means a licensed domestic or family violence program offered by a locally controlled non-profit organization created primarily for the purpose of providing services, including residential shelters, to victims of domestic violence or abuse and their children.

3.5. "Shelter" means a locally controlled non-profit organization facility that was created primarily for the purpose of receiving, to provide residential services, on a temporary basis, to persons who are victims of domestic violence, abuse or rape as well as the children of such victims and for providing comprehensive services to such persons.

3.6. "Perpetrator Intervention Program" means a licensed perpetrator intervention domestic violence program that accepts perpetrators of domestic violence or family violence into educational intervention groups.

3.7. "Custodial parent" means a biological parent, adoptive parent, legal guardian, state agency and its representatives who has temporary or permanent legal custody of a child.

3.8. "Custodial responsibility" refers to physical custodianship and supervision of a child. It may include residential or overnight responsibility.

3.9. "Monitored exchange" means the supervision of movement of a child from the custodial to the noncustodial parent at the start of the visit and back to the custodial parent at the end of the visit. This type of monitored contact is for those cases in which contact causes conflict between the adults but the contact between the parent and child could be expected to proceed without incident.

3.10. "Monitored visitation" means the contact between a non-custodial parent and one or more children in the presence of a third person responsible for observing and ensuring the safety of those involved.

3.11. "Noncustodial parent" means a biological parent or other adult authorized by a court to have supervised contact with a child

3.12. “Participant” means the custodial parent, the noncustodial parent, or the child receiving monitored contact.

3.13. “Supervised visitation” means the provision of therapeutic evaluation and/or intervention to help improve the parent-child interactions. Supervised visitation may only be provided by order of a court and only by trained certified or licensed mental health professionals or social workers.

3.14. “Certified Domestic Violence Advocate” means an advocate employed by a licensed family violence program who has been approved by the state domestic violence coalition Board of Directors as meeting the eligibility standards outlined in the Coalition Domestic Violence Advocate Certification Project.

§191-1-4. Board Reports

4.1. The Board shall study issues pertinent to family protection programs for domestic violence victims and prepare an annual report the governor and the Legislature within the first 20 days of the Legislative session regarding those issues.

§ 191-1-5. ~~Licensure Information and Provisions~~ Process

All family protection programs and perpetrator intervention programs and shelters shall be licensed by the Board in order to provide services to victims and/or perpetrators. The Board shall enforce a system of standards and a process for the annual licensure for all family protection and perpetrator intervention programs and shelters in the state.

~~5.1— Standards - The Board shall enforce a system of standards and a process for the annual licensure for all family protection and perpetrator intervention programs and shelters in the state.~~

~~5.1.— Standards—The family protection services Board shall enforce a system of standards for the annual licensure for all family protection programs and perpetrator intervention programs in the state.~~

5.1. License Application for Licensure

~~5.2.a. All family protection programs and perpetrator intervention programs must be licensed by the Family Protection Services Board in order to provide services to victims and/or perpetrators.~~

5.2.b. 1.a. The Board ~~will~~ shall provide a standard license application form ~~for licensure~~ to family protection programs and perpetrator intervention programs and shelters upon request. An organization must complete an application for licensure when it initially requests

licensure or when it wishes to reopen after closure. After initial licensure, family protection programs and perpetrator intervention programs and shelters will shall be regularly evaluated by the Board. ~~on an annual basis.~~

5.2.e.1.b. The Board shall ~~receive and~~ consider all applications submitted for the development and licensure of a family protection program and/or a perpetrator intervention program. ~~The Board shall consider all such applications~~ in light of the need for services, the viability of the applicant to successfully operate a family protection program or a perpetrator intervention program, the applicant's ability to obtain adequate funding for the delivery of services, capacity of the program to comply with the standards, and the applicant's interest and ability to provide quality services.

5.2.d.1.c. If the Board finds that an application contains deficiencies, the application and a list of deficiencies will be returned to the applicant and the applicant will have thirty (30) days to resubmit a revised application.

~~5.2.e. 1.d. The Board shall renew, on an annual basis, the Board shall renew~~ the licenses of all family protection programs and perpetrator intervention programs and shelters that are in compliance with the licensing standards pursuant to Title 191, Series 2, and Sections 4,5,6 and 7. this rule. Forms for license renewal shall be distributed by the Board to licensed family protection programs and perpetrator intervention programs in a timely manner no later than the first fifteenth day of March each year. ~~Family protection programs and perpetrator intervention programs shall submit renewal applications to the Board no later than the fifteenth day of April each year. All licenses will have a term of one year commencing on the first day of July and terminating on the thirtieth day of June on the next year. The Board shall grant or deny any license application within forty five (45) days of the receipt of an application. The Board shall require all licensed family protection programs and perpetrator intervention programs to conspicuously display the license.~~

5.2.f. 1.e. The Board shall, by certified letter, notify any organization operating without a license as a family protection program or a perpetrator intervention program or a shelter shall be notified by the Board, by certified letter, of its right to apply for licensure. The Board shall petition the circuit court for an order preventing the operation of an organization which refuses to obtain a license as required under this rule and West Virginia Code §48-2C-1 26-101 et seq.

5.2.a. Award Issuance of A License

5.2.a. The Board shall issue a license to any organization which has applied for a license and been approved by the Board as having complied with all established standards as set forth in this rule. Compliance with the standards shall be evaluated by peer reviewers, by Board members, by Board staff, or a combination of these parties as determined by the Board.

5.2.b. All licenses shall be valid for one (1) year commencing on the first day of

July and terminating on the thirtieth day of June on the next year. The Board shall grant or deny license within forty-five (45) days of receiving the license application. The Board shall require every licensed family protection and perpetrator intervention program and shelter to conspicuously display the license.

5.4. 3. Evaluation for Licensure

5.4. 3.a. The Board shall annually evaluate all family protection programs and perpetrator intervention programs operating in the state. The evaluation and peer review will be conducted using the licensing standards found in Title 191, Series 2, and Sections 4,5, and 6 and 7. ~~The evaluation system requires that all family protection programs and perpetrator intervention programs complete a self-review utilizing the standards compliance checklist on an annual basis in preparation for the on-site review.~~

5.4. 3.b. All programs will be reviewed on-site a minimum of once every two years. The Board shall annually assure an on-site review the established standards in Title 191, Series Sections 4,5,6, and 7. found in this rule for at least one-half of all licensed programs. Review of the remaining programs shall be determined by the Board. The standards compliance review will be completed utilizing the most current revision of the standards' checklist authorized by the Board. The annual peer review will be scheduled in a timely manner by the Board in order to allow the Board to consider the results prior to the expiration of the previous year's license.

5.4. 3.c. ~~The peer reviewer shall report~~ Any areas of non-compliance shall be reported on the licensing checklist by the reviewer on the licensing checklist. The Board shall review each area of non-compliance and consider the relative risk it poses to the health, safety and well-being of individuals being served by the family protection program or perpetrator intervention program and staff employed by the program.

5.3.d. The Board may survey the program's partner agencies to determine program effectiveness in relationship to community needs.

5.5. — Award of License

~~5.5.a. — The Board shall award a license annually to any organization which has applied for a license and been approved by the Board as having complied with all established standards as stated in Title 191, Series 2, Sections 4,5,6 and 7 this rule. Compliance with the standards will be evaluated either by use of the standards by peer reviewers, by Board members, by Board staff, or a combination of these parties as determined by the Board.~~

5.6. — Waiver of Licensure

~~5.6.a. — The Board may grant a provisional license or grant a waiver of licensure if the Board deems a waiver or provisional license is necessary for the good of victims or~~

~~perpetrators who will be served by the family protection program or perpetrator intervention program in question. All such waivers or provisional licenses shall be reviewed semi-annually.~~

5.7. 4. Improvement Period, Issuance of a Provisional License.

~~5.7.a.—The Board may also allow a family protection program or a perpetrator intervention program a period of improvement after the notice of the Board's intent to revoke or suspend the license. Within ten days of receiving notice, the family protection program or perpetrator intervention program must submit a written plan of action that will bring the family protection program or perpetrator intervention program into compliance with the standards within 30 days. The Board shall provide funds to a family protection program which is operating under a period of improvement. Four members of the Board must vote in the affirmative in order to re-license a family protection program or a perpetrator intervention program to allow for a period of improvement.~~

Upon a finding by the Board that a family protection program or a perpetrator intervention program is not in compliance with this rule, the Board shall give the family protection program or the perpetrator intervention program written notice that shall include but not be limited to the following:

~~5.7.a.1.4.a.~~ A statement of program deficiencies.

~~5.7.a.2. 4.b.~~ A requirement for a program to submit a plan of correction regarding the deficiencies.

~~5.7.a.3.4.c.~~ A timeline for the Board's review of the plan of correction.

~~5.7.a.4.d.~~ Modification of the plan A requirement that the plan be modified and resubmitted to the Board within twenty (20) days to the Board should the original plan not address the identified deficiencies.

~~5.7.a.5.4.e.~~ A requirement that compliance occur within a time period set by the Board.

5.4.e. Verification of the issuance of a provisional license until compliance is achieved or until the Board takes action deemed necessary for the safety of the clients.

5.8. 5. Revocation or Suspension of A License.

5.8.a.—The Board ~~may~~ shall close any family protection or perpetrator intervention program ~~that which~~ violates the standards ~~licensing requirements~~ established in Title 191, Series 2, Sections 4,5,6 and 7, subject to the requirements in this rule regarding public

hearings. ~~Four members of the Board must vote in the affirmative before a license is revoked or suspended.~~

5.8.a.1.5.a. Four members of the Board must vote in the affirmative before a license is revoked or suspended.

5.5.b. ~~Where~~ When there is an immediate threat to the health, well-being and safety of shelter residents, or an unplanned closure by the family protection ~~or perpetrator~~ intervention program's or shelter's governing Board of directors, the ~~family protection services~~ Board shall place the residents and/or participants in other family protection programs ~~or perpetrator intervention programs,~~ or shelters, or some other appropriate safe and secure place. ~~Four members of the Board must vote in the affirmative before a license is revoked or suspended.~~

5.8.a.2.5.c. The Board shall send written notice of the license revocation or suspension by certified mail to the president of the family protection ~~or perpetrator intervention~~ program's or shelter's governing Board of directors. ~~The notice will be mailed by certified mail to the program's president of the governing Board of directors.~~ The notice shall include a statement of the program's or shelter's alleged violations of this rule. The family protection ~~or perpetrator intervention~~ program's Board of directors will have ~~30~~ fifteen (15) days to respond to the violations. This response ~~must~~ shall be in writing. If there is no written response, the ~~family protection services~~ Board will proceed with the revocation or suspension of the ~~family protection or perpetrator intervention~~ program's or shelter's license. The Board will not provide funds to a family protection program or shelter whose license has been revoked or suspended.

5.8.a.3.5.d. If the family protection services Board is provided with a response to the violations, a public hearing will be held within 60 days ~~in the confines of the municipality or county in which the program is located.~~

5.8.b. 5.6. Receivership of Program.

The Board may place a family protection ~~program or perpetrator intervention~~ program under receivership when the health, well being and/or safety of its clients are threatened. The Board shall oversee the operation of ~~said~~ the program to preserve the services for clients. The Board shall have access to and may use all assets of the program. ~~Notice of the Board's intent to place a family protection or perpetrator intervention program into receivership shall be made by certified mail or in person by a member of the Board to the governing body of a family protection program or perpetrator intervention program.~~ The Board shall send written notice of the intent to place a family protection program into receivership by certified mail to the president of the family protection ~~or perpetrator intervention~~ program's or shelter's governing board of directors.

5.8.e. 5.6.a. The Board shall provide for and hold a public hearing in the municipality or county in which the program is located prior to the closure of a program by ~~through~~ the revocation or suspension of the license ~~or~~ placing a program into receivership.

~~5.8.d.~~ 5.6.b. The Board shall provide the governing body and/or legal counsel of the program notice of hearing time, date and location at least thirty (30) ten (10) days prior to the hearing date. Notice of the hearing shall be given to the Secretary of State The Board shall provide notice of the hearing to the Secretary of State in compliance with West Virginia Code §6-9A et seq. Local public notice shall also be given The Board shall provide notice of the hearing through a local newspaper's legal notice section at least ten (10) days prior to the hearing date. The hearing will be held in accordance with West Virginia Code §29A-5 et seq.

5.6.c. The Board chair shall conduct the hearing and she/he shall have full authority to call recesses, to remove individuals exhibiting inappropriate behavior from the hearing, and to call for an executive session of the Board if necessary. Four (4) members must be present to hear the violations and the program's response.

§ 191-1-6. Certification.

6.1. The Board shall oversee a process for the certification of all monitored visitation and exchange programs in the state. The purpose of certification is to assure the safety and welfare of the children, adults and program staff during supervised contact. Once safety is assured, the welfare of the child(ren) is the paramount consideration at all stages. While these rules apply only to, nothing in these rules shall preclude a monitored visitation and exchange program from offering both monitored visitation and exchange services and supervised visitation services.

6.2. Application for Certification

6.2.a. All monitored visitation and exchange programs that represent themselves as certified for monitored contact shall be certified by the Board.

6.2.b. The Board shall provide a standard application form for certification of monitored visitation and exchange programs upon request. An organization shall complete an application for certification when it initially requests certification or when it wishes to reopen after closure. After initial certification, monitored visitation and exchange programs will be evaluated by the Board on an annual basis.

6.2.c. The Board shall receive and consider all applications submitted for the development and certification of a monitored visitation and exchange program in light of the need for services, the ability of the applicant to successfully operate a program, the applicant's ability to obtain adequate funding for the delivery of services, and the applicant's interest and ability to provide quality services.

6.2.d. If the Board finds that an application contains deficiencies, the application and a list of deficiencies will be returned to the applicant, and the applicant will have thirty (30)

days to resubmit a revised application.

6.2.e. The Board shall, on an annual basis, renew the certification of all monitored visitation and exchange programs that are in compliance with this rule. The Board shall distribute forms for certification renewal to certified monitored visitation and exchange programs in a timely manner no later than the fifteenth day of March each year. All certifications will be valid for one (1) year commencing on the first day of July and terminating on the thirtieth day of June on the next year. The Board shall grant or deny any certification application within forty-five (45) days of receiving the application. The Board shall require all certified monitored visitation and exchange programs to conspicuously display the certification.

6.2.f. The Board shall notify, by certified letter, any organization operating a program without certification as a monitored visitation and exchange program of its right to apply for certification.

6.3. Evaluation for Certification

6.3.a. The Board shall annually evaluate all certified monitored visitation and exchange programs operating in the state. The evaluation shall be conducted using the certification standards found in Section 4 of this rule.

6.3.b. The Board shall review each area of non-compliance and consider the relative risk it poses to the health, safety and well-being of individuals being served by the monitored visitation and exchange program and of staff employed by that program.

6.3.c. The Board shall determine whether trained staff from a certified monitored visitation and exchange program, a member of the Board, or staff of the Board shall conduct the evaluation.

6.4. Award of Certification.

The Board shall award certification annually to any organization which has applied for certification and been approved by the Board as having complied with all established standards set forth in this rule. Compliance with the standards will be evaluated by peer reviewers, by Board members, by Board staff, or a combination of these parties as determined by the Board.

6.5. Provisional Certification.

~~6.5.a. The Board may grant provisional certification if the Board deems such provisional certification is necessary for the good of participants who will be served by the monitored visitation and exchange program in question. All provisional certifications shall be reviewed semi-annually.~~

6.5.b. Upon a finding by the Board that a monitored visitation and exchange

program is not in compliance with Series 4 of this rule, the Board shall give the program written notice that shall include, but not be limited to, the following:

- 6.5.b.1. Program deficiencies.
- 6.5.b.2. A requirement to submit a plan of correction regarding the deficiencies.
- 6.5.b.3. The timeline when the Board will review the plan of correction.
- 6.5.b.4. A requirement that compliance occur within a time period set by the Board.
- 6.5.b.5. Verification of the issuance of provisional certification until compliance is achieved or until the Board takes action deemed necessary for the safety of participants.

6.6. Revocation or Suspension of Certification.

6.6.a. The Board may revoke or suspend certification of any monitored visitation and exchange program that violates the provisions of this rule, subject to the requirements in this rule regarding public hearings. Four (4) members of the Board shall vote in the affirmative before certification is revoked or suspended.

6.6.a.1. The Board shall send written notice of the revocation or suspension by certified mail to the to the president of the monitored visitation and exchange program's governing board of directors. The notice shall state the monitored visitation and exchange program violations of this rule.

6.6.a.2. The Board shall permit the program's board of directors fifteen (15) days from date of receipt of the notice to respond in writing to the alleged violations. If there is no written response, the Board will proceed with the revocation or suspension of the monitored visitation and exchange program's certification.

6.6.a.3. If the Board is provided with a response to the violations, a public hearing will be held in the municipality or county in which the program is located within thirty (30) days of receipt of the response.

6.6.b. The Board shall provide for and hold a public hearing in the municipality or county in which the program is located prior to the closure of a program through the revocation or suspension of the certification.

6.6.b.1. The Board shall provide notice of hearing time, date and location to the governing body or legal counsel of the program at least ten (10) days prior to the hearing date. The Board shall provide notice of the hearing to the Secretary of State in compliance with West Virginia Code §6-9A et seq. Local public notice shall also be given through a local newspaper's legal notice section at least ten (10) days prior to the hearing date.

3.6.b.2. The hearing shall be conducted by the Board chair and he or she shall have full authority to call recesses, to remove persons exhibiting inappropriate behavior from the hearing, and to call for an executive session of the Board if necessary. Four (4) members shall be present to hear the violations and the program's response.

§ 191-1-6.7. Funding of Family Protection Programs

6.7.1. Amount Awarded - The Board shall award to programs, for each state fiscal year, ninety-five percent (95%) of the total funds collected and paid over during the fiscal year to the special revenue account established pursuant to West Virginia Code § 48-1-24. Any administrative funds not expended the previous year shall be carried over and allocated to programs the following fiscal year.

6.7.2. Application for Funds - The Board shall accept applications for grant funds from any licensed family protection program. The application shall include, but not be limited to the following:

6.7.2.a. A copy of the Articles of Incorporation Certificate and a copy of the 501(c)(3) Internal Revenue Service Determination Letter.

6.7.2.b. A list of the incorporators of the corporation and a list of the officers and the Board of directors.

6.7.2.c. The proposed budget of the family protection program for the following fiscal year.

6.7.2.d. A summary of the services proposed to be offered in the following fiscal year by the family protection program.

6.7.2.e. An evaluation of the local need for a family protection program.

6.7.2.f. An estimate of the number of people to be served by the family protection program during the following fiscal year; and

6.7.2.g. Any other information the Board may feel is necessary.

6.7.3. Criteria - In order for a family protection program to qualify to receive grant funds from the Board, it must meet the following criteria:

6.7.3.a. Be incorporated in the state of West Virginia as a nonprofit corporation.

6.7.3.b. Have a Board of directors which represents a broad spectrum of the community to be served, including at least one person who is or has been a victim of domestic violence or abuse.

6.7.3.c. Receive at least fifty-five (55) percent of its funds from sources other than funds distributed under this rule. These sources may be public or private and may include contributions of goods or services.

6.7.3.d. Require persons employed by or volunteering services to the program to maintain the confidentiality of any information, which may identify individuals served by it.

6.7.3.e. Provide or propose to provide a facility which will serve as a temporary shelter to receive, care and provide services for persons who are victims of domestic violence or abuse and their children.

6.7.4. Restrictions.

6.7.4.a. The Board shall not fund a family protection program if it is shown to discriminate in its services on the basis of race, religion, age, sex, marital status, national origin or ancestry. If such discrimination occurs after initial funding, the program will not be refunded until the discrimination ceases.

6.7.4.b. The Board shall not refund a family protection if services were not provided in the first two months following the initial disbursement of funds by the Board. Provided that upon a subsequent showing that the funds were used in the manner proposed in the original application, the program is not barred from subsequent funding. A revision of the original application may be filed with the Board when the program starts providing services.

6.7.5. Grant Award Criterion - The Board shall make grant awards on the basis of the following criteria. The Board must grant or deny an application within forty-five days of the receipt of the application.

6.7.5.a. Demonstration of local need for proposed services.

6.7.5.b. Proposed goals and objectives.

6.7.5.c. Demonstration of local control of the program.

67.5.d. Administrative design and efficiency of the project.

67.5.e. Merit of the project as proposed to include at minimum: adequate funding to support the program, geographic area(s) to be served, record of effective services and coordination with other programs.

6.7.6. Distribution of Funds - The Board shall deliver funds to each family protection program within forty-five (45) days of the approval of a grant application. Within any fiscal year the Board shall distribute fifty percent (50%) of the grant funds in equal portions to all licensed programs within the forty-five (45) day limit. The Board shall also develop a formula for a second distribution of the remaining fifty percent (50%) of the funds it awards. Distribution of the second half of the funds shall occur by the fifteenth day of January of each fiscal year. The amount awarded to each family protection program shall be based on an effort to distribute funds in a fair and equitable manner, by acknowledging the size and associated costs of the family protection programs, rewarding programs for active and successful grant writing and fund raising work, and by implementing West Virginia Code §§48-2C-7 and 8. To determine the individual program award amounts of the second-half of the grant funds, the Board shall award funds according to a formula determined by the Board which may include but not limited to: populations, the number of shelter beds, shelter nights, persons served, diversification of funding and operational budgets. The Board shall identify and provide funding formula factors to family protection programs on or before January 15 each year. The Board shall require and review monthly financial reports from each program to assure the proper expenditure of grant funds.

67.7. Funding shall not apply to the following agencies and practitioners which shall not be funded by the Board:

67.7.a. Agencies which provide counseling, therapy and other social services to victims of domestic violence, but were not created or organized for the expressed purpose of serving such domestic violence victims.

67.7.b. Agencies which were created or organized for the expressed purpose of providing services to homeless individuals and families.

67.7.c. Local private practitioners who are providing services to victims of domestic violence within the scope of their professional license or by other professions including but not limited to: 1) Social Workers certified under the West Virginia Social Work Licensure Law or by the National Academy of Social Workers; 2) marriage counselors or family therapists certified by the American Association of Marriage and Family Therapy; 3) addiction counselors certified by the West Virginia Association of Alcohol and Drug Abuse Counselors, or 4) physicians and other health care practitioners.