

## **Regulatory Impact Statement**

### **1) Statutory authority:**

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the Office of Children and Family Services (OCFS) to establish rules, regulations and policies to carry out OCFS's powers and duties under the SSL.

Section 34(3)(f) of the SSL authorizes OCFS to establish regulations for the administration of public assistance and care within the State.

Section 390(2)(d-1) of the SSL, effective September 1, 2019, authorizes OCFS to establish regulations for legally-exempt child care providers to be able to receive child care subsidy funds.

Section 410(1) of the SSL authorizes a social services official of a county, city, or town to provide day care for children at public expense and authorizes OCFS to establish criteria for when such day care is to be provided.

Section 410-x(3) of the SSL requires OCFS to establish in regulation minimum health and safety standards that must be met by child care providers, funded under the New York State Child Care Block Grant.

### **2) Legislative objectives:**

The proposed changes to Title 18, of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR) are necessary to implement statutory authority granted to OCFS on April 1, 2019. SSL 390 was amended pursuant to the Child Care and Development Block Grant Act (CCDBG) of 2014. These legislative provisions require enhanced background checks and annual inspections of certain legally-exempt child care providers. The proposed changes will significantly improve the safety of children in child care programs and bring the Office into compliance with federal and state legislative requirements.

### **3) Needs and benefits:**

As referenced above in sections 1 and 2, the federal and state legislative changes mandate these regulatory changes. This rule is needed for compliance with federal law, including, but not limited to, enhanced background checks, annual inspections, annual training, removal of the

family share for youth in foster care and enhancing health and safety standards that will help protect children in care. This rule adds health and safety mandates in accordance with the federal requirements including transportation, supervision of sleeping children, child abuse and maltreatment reporting, among others. The proposed changes will significantly improve the safety of children in child care programs and bring the Office into compliance with federal and state legislative requirements. The elimination of the family share for child care services for a child in foster care will reduce barriers for such children to be enrolled expeditiously in a child care program.

#### **4) Costs:**

The costs associated with this rule are necessary to implement requirements under the Child Care and Development Block Grant Act (CCDBG) of 2014. While such costs are significant, they are largely born by OCFS. New requirements around enhanced background checks, annual inspections, and additional annual training of legally-exempt child care providers have been estimated to cost approximately \$43 million. At this time, OCFS does not intend to pass the costs related to inspections, training or criminal background checks on to providers, except for the \$25 processing fee for conducting a check of the Statewide Central Registry of Child Abuse and Maltreatment. Compliance with the enhanced background checks and additional training requirements is anticipated to be the primary fiscal burden for child care providers due to time lost from providing care. However, the Office offers a variety of training courses, at no cost to child care programs, that would satisfy the proposed annual training requirement for providers of legally-exempt child care. For those providers that use the Office training courses to satisfy this requirement, the costs will be minimal.

#### **5) Local government mandates:**

This rule imposes no new mandates on local governments. However, local social services districts will need to replace current forms that they distribute to child care assistance applicants with revised forms that will be provided by OCFS. The regulations will alleviate some districts from imposing certain additional standards on individuals applying to be an enrolled legally-exempt child care provider. For example, some districts require a background check and/or an annual inspection in order for a program to provide subsidized child care services. These regulations will impose such standard on a consistent basis at the state level for legally-exempt child care programs seeking to provide subsidized child care services.

**6) Paperwork:**

This rule results in an increase in paperwork due to the required changes in background checks. Prospective and existing providers, employees, volunteers and adult family child care household members, unless specifically exempted, are required to complete the background check packet. Federal law requires rescreening through the background check process no less than once every five years. Additional documentation on health and safety compliance is also required.

**7) Duplication:**

This rule does not duplicate, overlap, or conflict with any existing state or federal rules or other legal requirements.

**8) Alternatives:**

There are no alternatives to this rule. Federal and State law require compliance in September 2019.

**9) Federal standards:**

This rule is consistent with applicable federal requirements to conduct background checks and, annual inspections, enhance of health and safety standards, and impose annual training standards for child care programs.

**10) Compliance Schedule:**

This rule becomes effective September 25, 2019.