

REGULATORY IMPACT STATEMENT

1. Statutory authority

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Office of Children and Family Services (OCFS) to establish rules and regulations to carry out its duties pursuant to the provisions of the SSL.

Section 34(3) (f) of the SSL requires the Commissioner of OCFS to promulgate regulations for the administration of public assistance and care within the state.

2. Legislative objectives

The regulations implement standards required by the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) that went into effect on October 7, 2008.

3. Needs and Benefits

The regulations will reduce disruption experienced by a child when removed from the child's home and placed into foster care and will enhance continuity in the child's environment.

Regarding the relationship of the child with his or her relatives, the regulations require that within 30 days of the removal of a foster child from his or her home, the social services district must exercise due diligence in identifying and notifying relatives of the child, including all grandparents and other relatives identified by the child's parents, that the child was removed, the options available to relatives to become the child's foster parent or to otherwise care for the child

and any options that may be lost by the failure of the relative to respond to such notification in a timely manner. The regulations take into consideration the safety of the child by excluding the need to notify any relative who has a history of family or domestic violence.

The regulations address the need to minimize disruption by requiring the social services district to assess the proximity of the foster care placement to the school the child attended before placement into foster care and the appropriateness of the child remaining in that school upon entry into foster care. Where it is not in the best interests of the child to attend such school, the regulations require the social services district to work with the appropriate local school officials to see that the child is immediately enrolled in a new school.

The regulations also support the preparation of the foster child to transition out of foster care. One of the fundamental needs of any child is his or her education. The regulations clarify that each foster child of school age must either be enrolled in an appropriate educational setting, unless the child is incapable of attending school, or has completed his or her secondary education. The regulations impose a similar requirement in regard to a child who is in receipt of an adoption subsidy and is of school age.

The regulations support the transition of older foster children out of foster care by requiring the authorized agency with case management responsibility to develop a transition plan for a foster child who is aging out of foster care. This plan must be developed to meet the needs of the particular foster child, with such child's input. Development of the transition plan must commence 180 days prior

to the scheduled discharge date of the foster child, with the completion of the plan 90 days prior to the scheduled discharge. Such plan must address such basic post discharge issues as housing, health insurance, education, supports services and employment.

4. Costs

The regulatory amendments are required by the federal Fostering Connections to Success and Increasing Adoption Act of 2008. There is no fiscal impact associated with implementing the regulations because current OCFS regulations require social services districts to carry out similar functions as those prescribed in these regulations. With the exception of the regulatory amendment associated with the transition plan, the regulatory changes are federally mandated under Title IV-E of the Social Security Act. Currently, New York must demonstrate that it has implemented these requirements in order to have a compliant Title IV-E State Plan. This is a condition for continuing to receive federal funds for foster care, adoption assistance and the administration of these programs.

The regulatory change regarding the transition plan for children who are aging out of foster care is a federal mandate under Title IV-B, Subpart 1 of the Social Security Act. In order to have a compliant Title IV-B State Plan and to continue to receive federal Child Welfare Services funding, New York State must demonstrate that it has implemented such standard.

There is no fiscal impact associated with the regulatory amendment to 18 NYCRR 421.19(c)(19). Currently, the New York City Administration for

Children's Services notifies adoptive parents to verify that they are continuing to support their adoptive children and continue to be legally responsible for the support of their adoptive children. Acceptable documentation includes proof of school attendance. Documentation provided by the adoptive parent can be maintained in the social services district in the adoption subsidy case file. The regulatory amendments do not require any modification to CONNECTIONS. The requirements associated with documenting information in the child's uniform case record progress notes can be supported by CONNECTIONS.

5. Local Government Mandates

The regulations require social services districts to carry out functions similar to those they already have been obligated by State statute and OCFS regulations to perform. Current OCFS regulation 18 NYCRR 430.11(c) requires the social services district placing a child into foster care, whenever possible, to place the child in a foster care setting that permits the child to retain contact with the persons, groups and institutions with which the child was involved while living with his or her parents. OCFS regulation 18 NYCRR 430.10(b) currently requires the social services district that is contemplating the placement of a child into foster care to attempt, prior to placement, to locate adequate alternative living arrangements with a relative or family friend which would enable the child to avoid placement into foster care. Section 1017 of the Family Court Act and section 384-a of the SSL currently provide that when a child is to be removed from his or her home, the social services district must identify and discuss with such relative, including grandparents, available options to function as the child's

foster parent or to assume direct legal custody of the child. The social services district must also notify the relative that the child may be adopted by foster parents if attempts at reunification with the birth parent are not required or are unsuccessful.

Social services districts are obligated pursuant to section 409-e of the SSL and OCFS regulations 18 NYCRR Part 428 and 430.12 to develop for each foster child a family assessment and service plan that addresses the needs of the child, including those related to education and the preparation of the child for discharge from foster care. These standards also presently require that foster children over the age of 10 be invited to participate in such planning.

6. Paperwork

The regulations require the recording of the actions taken by the social services district or voluntary authorized agency with case management responsibility in meeting the standards referenced above. Such documentation will be recorded in New York State's statewide automated child welfare information system, CONNECTIONS.

7. Duplication

The regulations do not duplicate other state or federal requirements. The regulations build on related existing requirements.

8. Alternative Approaches

Given the mandates imposed by the federal Foster Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) and the adverse financial

consequences for non-compliance, there is no viable alternative to implementing the regulations.

9. Federal Standards

Each of the regulatory amendments reflects requirements imposed by the federal Foster Connections to Success and Increasing Adoptions Act of 2008. The regulatory changes relating to relatives and education are federally mandated under Title IV-E of the Social Security Act. New York State must demonstrate that it has implemented such standards in order to have a compliant Title IV-E State Plan which is a condition for New York to continue to receive federal funding for foster care and adoption assistance. The regulatory change relating to the transition plan for aging out foster children is federally mandated under Title IV-B, Subpart 1 of the Social Security Act. New York must demonstrate that it has implemented such standard in order to have a compliant Title IV-B State Plan which is a condition for New York to continue to receive federal child welfare services funding.

10. Compliance Schedule

Compliance with the regulations would take effect upon adoption.