

## REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESS AND LOCAL GOVERNMENTS

### 1. Effect of Rule:

Social services districts will be affected by the regulation. There are 58 social services districts. The St. Regis Mohawk Tribe is authorized as a social services district to provide child welfare services pursuant to its State/Tribal Agreement with OCFS. Voluntary authorized agencies also will be affected by the proposed regulation. There are approximately 250 of such agencies.

### 2. Compliance Requirements:

The regulations would impose requirements on local social services districts and voluntary authorized agencies in relation to the preparation for permanency hearings by conducting a case consultation with case members and other participants. Although case consultation is currently required, these regulations impose a formal structure and process. This case consultation is in addition to the service plan review they already conduct with such persons. In addition, the districts and agencies must prepare permanency hearing reports on the prescribed statutory schedule, increasing documentation requirements upon local social services districts and the voluntary authorized agencies with which they contract. The requirements established by the regulations are consistent with the requirements and intent of Chapter 3 of the Laws of 2005 – that children served by the child welfare system are in settings where they are as safe as possible, and that such children reside in permanent homes as soon as reasonably can be accomplished.

Additionally, the regulations reflect the repeal of sections 153-d and 398-b of the SSL by Chapter 83 of the Laws of 2002 which, previous to repeal, had authorized OCFS to

sanction social services districts if they did not meet certain requirements, including those relating to timely filing of certain court review petitions that have been eliminated by Chapter 3 of the Laws of 2005. The repeal of 18 NYCRR 430.1 through 430.7 and 430.13 are necessary to reflect these statutory changes.

3. Professional Requirements:

It is expected that there will be implementation costs associated with Chapter 3 and the regulations. The impact will be dependent upon the district's or agency's current circumstances and staffing. Current training programs will be enhanced to emphasize the casework support addressed by the regulations, meaning appropriate staff must be trained.

4. Compliance Costs:

The implementation of these regulations and the underlying statutory provisions have both state and local costs associated with them. Local costs are partially offset by expected improvements in case processing, avoidance of federal sanctions and more rapid achievement of permanency for children in care and the associated savings attached to a shorter length of stay.

State activities related to the implementation of the statute and regulations will result in the delay of the final release of CONNECTIONS due to the redesign of current aspects of Build 18 (Case Management) and to incorporate the regulatory changes into the design of Build 19 (Financial Management).

There are anticipated costs as well as savings for local social service districts and voluntary authorized agencies as a result of implementation of the statutory provisions underlying these regulations. Initial implementation, as with any major policy and

practice change, will require additional staff time to learn the new process and, with these regulations, to complete the statutorily required permanency hearing report and conduct case consultations prior to the development of permanency hearing reports in a more formal manner than is currently required. These staff costs will be offset, in part, by: the elimination of the requirements for administrative service plan reviews whenever the family court permanency hearing meets the federal requirement for such review to be held at least every six months; the elimination of the requirement for case consultations prior to service plan reviews; the elimination of filing of petitions with family court in most child welfare related matters, and elimination of the personal service of notice of hearings. Due to date certain calendaring of permanency hearings, it is anticipated that there will be a reduction in court adjournments resulting from the legislation underlying the regulations. This will reduce the time staff must spend in family court. Staff costs will be further offset when development work is completed so that the permanency hearing report is pre-filled and generated electronically, customized for the child's age and permanency planning goal.

Additional savings to local districts include anticipated reduced lengths of foster care stays for some children as a result of permanency hearings held more frequently than is now the case. There is also the potential to avoid foster care placements at the time of emergency removals by requiring hearings in all cases. The implementation of these regulations and the underlying statutory provisions will also eliminate lapsed authority for foster care placements, as the court retains continuing jurisdiction until the child is discharged, and will promote more timely reasonable efforts determinations by the court, thereby reducing the compliance items for which the State, and therefore the local

districts, may be sanctioned in the secondary federal Title IV-E review scheduled in New York State for August 2006 and subsequent Title IV-E reviews.

5. Economic and Technological Feasibility:

Chapter 3 of the Laws of 2005 requires the completion of a permanency hearing report for filing with the court and sharing with other persons involved in the case for all children in foster care, with the exception of non-completely freed juvenile delinquents and persons in need of supervision, and all children directly placed in the custody of a relative or other suitable person pursuant to Article 10 of the Family Court Act (FCA). This is a new requirement for child welfare staff who serve children impacted by Chapter 3. The regulation will not impose any additional economic or technological burdens on social services districts or child welfare services providers. Districts and agencies will not need additional computers beyond those already provided by the State. The economic impact of implementation will vary.

6. Minimizing Adverse Impact:

The Office of Children and Family Services (OCFS), in collaboration with the Office of Court Administration (OCA), the Administration for Children Services in New York City and a representative sample of local social services districts developed templates for use Statewide to meet the permanency hearing report requirement and to alleviate the need for local social services districts to design and create their own reports. However, requirements for preparation, filing and serving of petitions for most child welfare related court hearings no longer exists, thus offsetting such increased documentation requirements. Furthermore, the impact will be mitigated by the introduction of an automated permanency hearing report in 2007. Additionally, the

requirements for Uniform Case Record documentation in accordance with section 409-e of the Social Services Law (SSL) were expanded by Chapter 3 of the Laws of 2005 when a child is removed from his or her home. This expansion is partially offset by the first reassessment being due one month later than had previously been required. Finally, OCFS has submitted a Title IV-E State Plan amendment to the federal government, so that a permanency hearing can take the place of the administrative service plan review meeting with a third party reviewer to meet the federal requirement that the case be reviewed by an administrative or judicial review with an independent reviewer, as long as the permanency hearing is held and completed within six months of the previous service plan review.

7. Small Business and Local Government Participation:

OCFS actively sought and obtained the input of local social services districts in designing the permanency hearing reports and in defining the requirements for family assessments and services plans, service plan reviews and case consultations to prepare for the permanency hearings.