

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 powers and duties pursuant to the provisions of the SSL.

Section 34(3)(c) of the SSL requires the Commissioner of OCFS to take cognizance of the interests of health and welfare of the inhabitants of the state.

Section 462(1)(a) of the SSL requires OCFS to promulgate regulations concerning standards of care, treatment, and safety applicable to all facilities exercising care or custody of children.

Section 500(2) of the Executive Law authorizes the Commissioner of OCFS to establish rules and regulations to carry out its powers and duties pursuant to the provisions of the Executive Law.

Section 501(16) of the Executive Law authorizes the Commissioner of OCFS to perform such acts as are necessary or convenient to carry out OCFS' functions, powers, and duties in furtherance of the best interests of youth.

2. Legislative Objectives:

Chapter 436 of the Laws of 1997 created OCFS to take on the functions, powers, duties and obligations in the SSL concerning services and programs identified in article 6 of the SSL regarding the care and protection of children and under the structure and authority of article 2 of the SSL. This proposed rule enhances that responsibility by addressing the issue of risk of physical harm to youth in care and victims of domestic violence and their children residing in residential programs for victims of domestic violence caused by failing to require appropriate face coverings in congregate care settings to prevent the spread of COVID-19.

3. Needs and Benefits:

The proposed regulation will protect the health and safety of youth and victims of domestic violence and their children residing in residential programs for victims of domestic violence in congregate settings overseen by OCFS. The United States Centers for Disease Control and Prevention has issued guidance warning of the higher risks posed to persons residing in congregate settings, including juvenile detention centers (see, e.g., <https://www.cdc.gov/coronavirus/2019-ncov/community/shared-congregate-house/guidance-shared-congregate-housing.html>; <https://www.cdc.gov/coronavirus/2019-ncov/community/correction-detention/guidance-correctional-detention.html>).

To address the need to protect youth residing in programs operated, approved, licensed or certified by OCFS, many of whom are unable to become vaccinated due to their age, and victims of domestic violence and their children residing in residential programs for victims of domestic violence, it is incumbent on OCFS to establish expectations for operators of these programs to minimize the risk to youth in their care such as setting expectations regarding the wearing of face coverings.

4. Costs:

The proposed regulations mandate implementation of best practices recommended by numerous State and federal agencies. There are no costs anticipated.

5. Local Government Mandates:

There are no new local government mandates.

6. Paperwork:

There are no additional paperwork requirements.

7. Duplication:

The proposed regulations would not duplicate other state or federal requirements.

8. Alternatives:

No significant alternatives were considered.

9. Federal Standards:

The proposed regulations would not conflict with current federal standards.

10. Compliance Schedule:

Compliance with the proposed regulations would begin immediately upon filing.