Notice of Emergency Adoption

[ ] Approval has been granted by Executive Chamber to file this rule making.

[ ] This rule making does not require Executive Chamber approval.

[ ] This adoption will amend the NYCRR.

[ ] This adoption will not amend the NYCRR.

NOTE: Typing and submission instructions are at the end of this form. Please be sure to COMPLETE ALL ITEMS. Incomplete forms and nonscannable text attachments will be cause for rejection of this notice.

1. Action taken:
   Addition of Part 338 to Title 18 NYCRR

2. Effective date of emergency rule:
   [ ] Date of filing.
   [ ] Other date (specify): ____________________________________________________________________

3. History of emergency actions (check only one box):
   [ ] This is the first time this emergency rule has been adopted (first emergency, effective for 90 days). No public comment required.
   [ ] This is the first readoption of an emergency rule (second emergency, effective for 60 days). No public comment required, and a Notice of Proposed rule making has been submitted, I.D. No. ___________ - ________, issue date: _____________.
   [ ] This is the second (or greater) readoption of an emergency rule (third emergency or greater, effective for 60 days). Public comment is required, see Item 18.

4. Statutory authority under which the rule was adopted:
   Sections 500(2) and 501(16) of the Executive Law; sections 20(3)(d), 34(3)(c), and 462(1)(a) of the Social Services Law

5. This emergency rule is necessary for the preservation of:
   [ ] public health  [ ] public safety  [ ] general welfare

6. The specific reasons underlying the finding of necessity, above, are as follows:

7. Subject of the rule:
   To establish minimum standards to control the spread of COVID-19 at residential congregate programs.

8. Purpose of the rule:
   To establish minimum standards to control the spread of COVID-19 at residential congregate programs.
9. Terms of rule (SELECT A, B or C. Item D is required.)
   A. [X] The full text of the rule is attached because it does not exceed 2,000 words.
   B. [ ] A summary of the rule is attached because the full text of the rule exceeds 2,000 words.
       Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide
       sufficient information to enable the public to access the full text without extensive searching.
       For example, provide a URL or a title to either a webpage or a specific section of the website
       where the full text is posted]:
   C. [ ] Pursuant to SAPA §202(7)(b), the agency elects to print a description of the subject, purpose
       and substance of the rule as defined in SAPA §102(2)(a)(ii) [Rate Making]. Web posting of full
       text of such rule is not required [SAPA §202(1)(a)].
   D. Signed certification of adoption and full text of the rule are attached:
       [X] Signed certification of adoption (scanned pdf).
       [ ] Full text of the rule (MS Word).

10. Type of notice:
    [ ] This notice is intended to serve only as an emergency adoption, to be valid for 90 days or less.
    [X] This notice is intended to serve only as a notice of emergency adoption; however, the agency intends
        to adopt the provisions of this emergency as a permanent rule, having submitted to the Department of
        State a notice of emergency/proposed or proposed rule making I.D. No. ________________,
        Issue of: 12/29/2021 ________________.
    [ ] This notice is intended to serve only as a notice of emergency adoption; however, the agency intends
        to submit a notice of proposed rule making in the future.
    [ ] The agency adopted the provisions of this emergency rule as a permanent rule, pursuant to SAPA section
        202(6)(c), because the purposes of the emergency measure would be frustrated if subsequent notice
        procedures were required.

11. Emergency expiration date (A first emergency rule is effective and enforceable for up to 90 days from the date
    of filing. Second and subsequent emergency rules are effective and enforceable for up to 60 days from their
date of filing UNLESS the agency specifies an earlier date). This rule expires:
    [ ] 90 days after filing
    [X] 60 days after filing
    [ ] Other (specify date): ________________
    • A notice of proposed rule making must be published to adopt this rule permanently and before a
      first emergency rule can be readopted.

12. The text of the final rule and any required statements and analyses may be obtained from:
    Agency contact Frank J Nuara, Associate Attorney
    Agency name New York State Office of Children and Family Services
    Office address 52 Washington Street
                    Rensselaer, New York 12144
    Telephone (518) 474-9778
    E-mail regcomments@ocfs.ny.gov

13. Additional matter required by statute:

    [ ] YES (include below material required by statute).

    [X] No additional material required by statute.
14. Regulatory Impact Statement (RIS)
(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RIS contains:

[ ] the full text of the RIS.
[ ] a summary of the RIS.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

[ ] a consolidated RIS, because this rule is one of a series of closely related and simultaneously proposed rules or is virtually identical to rules proposed during the same year.

B. An RIS is not attached:

[ ] because this rule is subject to a consolidated RIS printed in the Register under I.D. No.: _______________________; issue date: _____________.

[ ] because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
[ ] but will be published in the Register within 30 days of the rule’s effective date.

C. [ ] A statement is attached claiming exemption pursuant to SAPA §202-a (technical amendment).

15. Regulatory Flexibility Analysis (RFA) for small businesses and local governments
(SELECT AND COMPLETE ONE; ALL ATTACHMENTS MUST BE 2,000 WORDS OR LESS)

A. The attached RFA contains:

[ ] the full text of the RFA.
[ ] a summary of the RFA.

Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

[ ] a consolidated RFA, because this rule is one of a series of closely related rules.

B. [ ] A statement is attached explaining why a RFA is not required. This statement is in scanner format and explains the agency’s finding that the rule will not impose any adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses or local governments and the reason(s) upon which the finding was made, including any measures used to determine that the rule will not impose such adverse economic impacts or compliance requirements.

C. A RFA is not attached:

[ ] because this rule is subject to a consolidated RFA printed in the Register under I.D. No.: _______________________; issue date: _____________.

[ ] because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].
[ ] but will be published in the Register within 30 days of the rule’s effective date.
16. Rural Area Flexibility Analysis (RAFA)

(Select and complete one; all attachments must be 2,000 words or less)

A. The attached RAFA contains:

[X] the full text of the RAFA.

[ ] a summary of the RAFA.

[ ] Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

[ ] a consolidated RAFA, because this rule is one of a series of closely related rules.

B. [ ] A statement is attached explaining why a RAFA is not required. This statement is in scanner format and explains the agency's finding that the rule will not impose any adverse impact on rural areas or reporting, recordkeeping or other compliance requirements on public or private entities in rural areas and the reason(s) upon which the finding was made, including what measures were used to determine that the rule will not impose such adverse impact or compliance requirements.

C. A RAFA is not attached:

[ ] because this rule is subject to a consolidated RAFA printed in the Register under I.D. No.: ; issue date: .

[ ] because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] but will be published in the Register within 30 days of the rule's effective date.

17. Job Impact Statement (JIS)

(Select and complete one; all attachments must be 2,000 words or less)

A. The attached JIS contains:

[X] the full text of the JIS.

[ ] a summary of the JIS.

[ ] Full text is posted on the following State website. [Pursuant to SAPA §202(7)(d), provide sufficient information to enable the public to access the full text without extensive searching. For example, provide a URL or a title to either a webpage or a specific section of the website where the full text is posted]:

[ ] a consolidated JIS, because this rule is one of a series of closely related rules.

B. [ ] A statement is attached explaining why a JIS is not required. This statement is in scanner format and explains the agency's finding that the rule will not have a substantial adverse impact on jobs and employment opportunities (as apparent from its nature and purpose) and will have a positive impact or no impact on jobs and employment opportunities; except when it is evident from the subject matter of the rule that it could only have a positive impact or no impact on jobs and employment opportunities, the statement shall include a summary of the information and methodology underlying that determination.

[ ] A JIS/Request for Assistance [SAPA §201-a(2)(c)] is attached.

C. A JIS is not attached:

[ ] because this rule is subject to a consolidated JIS printed in the Register under I.D. No.: ; issue date: .

[ ] because this rule is exempt, as defined in SAPA §102(2)(a)(ii) [Rate Making].

[ ] because this rule is submitted by the State Comptroller or Attorney General.

[ ] but will be published in the Register within 30 days of the rule's effective date.

18. Assessment of Public Comment—required for second or subsequent readoptions (check applicable box).

[ ] An assessment of public comment is attached (less than 2,000 words).

[ ] An assessment of public comment is not attached because the rule is within the definition of SAPA §102 (2)(a)(ii) [Rate Making].

[ ] The agency received no public comment since publication of the last assessment of public comment.

[X] The agency received no public comment.
19. **Referenced material** (check one box):

[ ] No information is being incorporated by reference in this rule.

[ ] This rule contains referenced material in the following Parts, sections, subdivisions or paragraphs:

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**AGENCY CERTIFICATION (To be completed by the person who PREPARED the notice)**

I have reviewed this form and the information submitted with it. The information contained in this notice is correct to the best of my knowledge.

I have reviewed Article 2 of SAPA and Parts 260 through 263 of 19 NYCRR, and I hereby certify that this notice complies with all applicable provisions.

<table>
<thead>
<tr>
<th>Name</th>
<th>Signature</th>
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<tbody>
<tr>
<td>Frank J Nuara, Associate Attorney</td>
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<tr>
<th>Address</th>
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<tr>
<td>NYS OCFS, 52 Washington St., Rensselaer, NY 12144</td>
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<th>Telephone</th>
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<tr>
<td>(518) 474-9778</td>
<td><a href="mailto:frank.nuara@ocfs.ny.gov">frank.nuara@ocfs.ny.gov</a></td>
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**Please read before submitting this notice:**

1. Except for this form itself, all text must be typed in the prescribed format as described in the Department of State's Register procedures manual, *Rule Making in New York*.

2. Rule making notices, with any necessary attachments (in MS Word unless otherwise specified), should be e-filed via the Department of State website.