

## 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 (Office) to establish rules, regulations, and policies to carry out the Office's powers and duties under the SSL.

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

Section 390(2-a)(a) of the SSL authorizes the Office to establish regulations to set minimum quality program requirements for licensed and registered child day care programs, including health, infection control and record keeping.

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 the Office to establish criteria for when such day care is to be provided.

Section 658E(c)(2)(l) of the Child Care and Development Block Grant Act of 2014 (CCDBG) requires the Office to have in effect health and safety requirements for providers and caregivers in specified topic areas including prevention and control of infectious diseases including immunizations.

### 2. Legislative objectives:

The regulations support the legislative objectives underlying of sections 390, 390-a and 410-x of the Social Services Law to protect the health and safety of children in child care.

### 3. Needs and benefits:

The change in regulation ensures that the State remains in compliance with the requirements of Section 2164 of the New York State Public Health Law, as well as, the Child Care

and Development Block Grant Act of 2014 (CCDBG) (42 U.S.C. 9858 *et seq.*) and continue to protect the health and safety of children in child care.

At the present time, all New York State Regulations pertaining to licensed and registered programs, require that a program may not provide care to any child unless they have been furnished with a statement signed by a physician or other authorized individual for each child in care that states that the child has received all age appropriate immunizations in accordance with New York State Public Health Law or a statement that one or more of the required immunizations would be detrimental to the child's health or the child's caretaker provides a statement indicating that the child has not been immunized due to the caretaker's religious beliefs.

On June 13, 2019, Governor Andrew M. Cuomo signed legislation removing non-medical exemption from school vaccinations for children. As of that date, there is no longer a religious exemption to the requirement that children be vaccinated against measles and other diseases to attend public, private or parochial schools (in grades pre-kindergarten through 12) or child day care settings.

Those children attending child day care or public, private or parochial school and having a religious exemption to required immunizations must now receive the first age appropriate dose by June 28, 2019 to attend or remain in school or child day care. In addition, by July 14, 2019 parents and guardians of such children must show that they have scheduled appointments for all required follow-up doses.

A licensed or registered child care program may no longer accept a statement from a parent/caretaker stating the child has not been immunized based on their religious beliefs as proof of compliance with the immunization regulation.

All children, unless meeting the exception criteria set forth in regulation, that attend licensed or registered group family day care programs, family day care programs and day care

centers must remain current with their immunizations in accordance with the current schedule for required immunizations established by the New York State Public Health Law. A group family day care, family day care or day care center may admit any child who is not yet fully immunized, given that the required immunizations are in process and the parent or caretaker has submitted documentation to the program showing specific appointment dates related to completion of the required immunization series. Any child who is missing one or more of the required immunizations may be provided care if a physician, licensed to practice medicine in New York State furnishes the program with a signed, completed medical exemption form issued by the New York State Department of Health or New York City Department of Education certifying that such immunizations may be detrimental to the child's health, containing sufficient information to identify a medical contraindication to the specific immunizations and specifying the length of time each immunization is medically contraindicated. The medical exemption must be reissued annually

#### 4. Costs:

The implementation of emergency and proposed regulations does not result in costs to child care programs.

#### 5. Local government mandates:

The emergency and proposed regulations support a change to section 2164 of the New York State Public Health Law.

#### 6. Paperwork:

Child care programs will continue to have to keep immunization records for all non-school age children in care to maintain compliance with the regulations.

#### 7. Duplication:

The new requirements do not duplicate any existing State or federal requirements.

#### 8. Federal standards:

The regulations are consistent with the Child Care and Development Block Grant Act of 2014 (42 U.S.C. 9858 *et seq.*), which requires the Office to establish minimum health and safety standards.

9. Compliance schedule:

The regulations are effective when filed, as the change in legislation is already in effect.

10. Alternative approaches:

No alternative approaches were considered as this change is necessary for child care regulations to remain in line with New York State Public Health Law.