

## **Regulatory Impact Statement**

### **1) Statutory Authority:**

Section 20(3)(d) of the Social Services Law (SSL) authorizes the Commissioner of the New York State 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 390(2)(d) of the SSL authorizes the Office to establish regulations for the licensure and registration of child day care providers.

Section 390(2-a) of the SSL requires the Office to establish minimum quality program requirements for child day care.

### **2) Legislative Objectives:**

The proposed changes the child day care regulations are necessary to implement statutory authority granted to the Office on April 1, 2019. SSL 390 was amended pursuant to the Child Care and Development Block Grant Act (CCDBG) of 2014. These legislative provisions require enhanced background checks, annual inspections, training mandates for child care providers and additional health and safety standards. The proposed changes will significantly improve the safety of children in child care programs, and bring the Office into compliance with federal and state legislative requirements.

### **3) Needs and Benefits:**

As referenced above in sections 1 and 2, the federal and state legislative changes mandate these regulatory changes. These legislative provisions require enhanced background checks, annual inspections, training mandates for child care providers and additional health and safety standards. The proposed changes will significantly improve the safety of children in child care programs, and bring the Office into compliance with federal and state legislative requirements.

#### **4) Costs:**

The costs associated with the proposed changes in the child day care regulations that are necessary to implement new statutory authority pursuant to the Child Care and Development Block Grant Act (CCDBG) of 2014 are significant, but are anticipated to be mostly assumed by the Office. New requirements around enhanced background checks, annual inspections, and additional annual training of licensed and registered providers have been estimated to cost approximately \$37 million. At this time, the Office is not intending to pass these costs on to regulated providers. The fiscal burden on providers is anticipated to fall primarily on time lost from providing care in order to comply with the enhanced background checks and additional training requirements. As a result of the proposed regulations, day care centers that care for infants, toddlers or moderately ill children will be required to use the services of a health care consultant in completing a health care plan. Approximately 70 percent of day care centers already collaborate with health care consultants and will be unaffected by this change. For the remaining 30 percent of day care centers, the Office has contracted with Child Care Resource and Referral (CCR&R) agencies to employ registered nurses who act as health care consultants to child care programs at a reduced fee.

School-age programs are required, as part of the regulations and the state's obesity prevention initiative, to operate in compliance with the federal Child and Adult Care Food Program (CACFP) meal patterns. The Office proposes that programs have their menus reviewed for nutritional content, variety and quality at the time of initial application and once every 24 months by a CACFP specialist responsible for reviewing and approving menus or by a person who has a bachelor's or master's degree with a major in food and institutional management or a closely related field and who has completed a dietician internship or has been certified as a registered dietician or has an equivalent state certification. A school-age program that is enrolled in

CACFP has their menu approved at no cost. CACFP also offers this service to non-enrolled programs at no charge. Some county cooperative extension programs also offer this service free of charge.

Other changes, primarily the changes related to increasing the Office's ability to identify illegally operating day care programs is expected to have a positive financial impact on regulated providers by increasing the supply of children and families who will utilize regulated programs, thereby generating increased revenue to these programs. Also, some administrative relief is provided to regulated programs as a result of these new regulations.

**5) Local Government Mandates:**

No new mandates are imposed on local governments by these proposed regulations.

**6) Paperwork:**

There is an increase in paperwork associated with the proposed changes in background checks. All prospective and existing operators, employees, volunteers and adult household members will be required to complete the clearance packet. Rescreening will be conducted no less than once every five years. Programs will be required to discreetly post child-specific allergy information. The proposed regulations will require that school-age programs have a nutrition professional approve school age program menus. Paperwork will be reduced, however, by eliminating the family day care health and safety check list and requiring fewer employment references.

**7) Duplication:**

The new requirements do not duplicate state or federal requirements.

**8) Alternatives:**

There are no alternatives.

**9) Federal Standards:**

The regulations are consistent with applicable federal requirements.

**10) Compliance Schedule:**

The proposed regulations will become effective September 25, 2019.